

# **REORGANIZATION, DISSOLUTION, AND SHARING GUIDE**

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### **Appendix A**

The Reorganization Guide is prepared to provide guidance to members of school boards, citizens, superintendents, AEA administrators and board members, and other parties interested in school district whole-grade-sharing, reorganization, dissolution, and boundary changes. This publication is not intended to take the place of a thorough review of the cited sections of the Iowa Code nor substitute for the advice of an attorney. Many activities associated with whole-grade-sharing, reorganization, and dissolution require the assistance of an attorney.

# **CHAPTER 1**

## **ROLE OF THE AREA EDUCATION AGENCY IN DISTRICT REORGANIZATION**

The Code of Iowa gives a large amount of authority and responsibility to area education agencies (AEAs) for local school district reorganization. Although in most instances the final authority is up to the electorate, the AEAs have authority for specific decisions during the reorganization process and the responsibility for developing reorganization plans.

Iowa Code 273.4 states it is a duty of the AEA administrator to cooperate with the boards of local school districts of the AEA in considering and developing plans for the improvement of the educational programs and services in the AEA, and when requested, to provide such other assistance as possible to school districts of the AEA for the general improvement of their educational programs and operations.

The stated intent of Chapter 275, Code of Iowa, the reorganization chapter, is that the AEA board "...shall carry on the program of reorganization progressively and shall, insofar as it is possible, authorize submission of proposals to the electors as they are developed and approved." (275.6) "It is the policy of the state to encourage economical and efficient school districts which will insure an equal educational opportunity to all children of the state." (275.1)

These two quotations from the Code of Iowa set the overall tone for the AEA's leadership and regulatory functions in reorganization. Section 275.7 states that AEA shall include in its annual budget submitted expenditures as necessary to carry on its reorganization work.

### **AEA Reorganization Plans and Surveys**

#### **Requirement**

The area education agency boards shall develop detailed studies and surveys of the school districts within the area education agency and all adjacent territory for the purpose of providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in schools. The plans shall be revised periodically to reflect reorganizations which have taken place in the area education agency and adjacent territory. (275.1)

In developing studies and surveys, the AEA shall consult with district officials and may employ research and other assistance as reasonably necessary in order to properly carry on its survey and prepare definite plans of reorganization. (275.4)

#### **Scope**

The scope of the plan is to include the following information for local schools within the AEA and local schools adjacent to the AEA:

1. Adequacy of educational program,
2. Pupil enrollment,
3. Property valuations,
4. Existing buildings and equipment,
5. Natural community areas,
6. Road conditions,
7. Transportation,
8. Economic factors,
9. Individual attention given to needs of students,

10. The opportunity of students to participate in a wide variety of activities related to the total development of the student,
11. Other matters that may bear upon educational programs meeting minimum standards required by law,
12. Suggested alternatives that incorporate all schools into reorganized districts with a minimum enrollment of 300 students. The standard for a minimum enrollment of 300 is established in Section 275.3. (275.2)

It is required that the AEA boards consult with officials of the school districts, citizens, and the Director of the Department of Education regarding the plans. Hearings shall be conducted and neighboring AEAs shall be advised of the plans. The completed plans shall be transmitted to the Director of the Department of Education. (275.4)

The intended importance of an AEA's reorganization plan is emphasized in Iowa Code by the requirement that, upon receiving a reorganization petition, the AEA board review its plans and determine whether the petition complies with the plans which had been adopted by the AEA board. If the petition does not comply with the plans, the board shall conduct further surveys prior to the dates set for the hearing upon the petition. If further surveys have been conducted by the board, the board shall present the results of those surveys at the hearing. (275.5) The importance of the plans is additionally highlighted in that the plans..."shall constitute a mandatory prerequisite to the effectuation of any proposal for district boundary change. It shall be the mandatory duty of the area education agency board to dismiss the petition if the above provisions are not complied with fully." (275.9)

### **School Size -- Minimum Standards**

No new school district shall be planned by an AEA nor shall any proposal for creation or enlargement of any school district be approved by an AEA or submitted to electors unless within the proposed limits of the proposed district there are at least three hundred (300) residents of school age who were enrolled in public schools in the preceding school year. However, the Director of the Department of Education has authority to approve a school district with a lesser enrollment than 300 if the AEA provides documented evidence showing that sparsity of population, natural barriers, or other good reason makes it impracticable to meet the school enrollment requirement. (275.3)

### **Joint Districts -- Between Two AEAs**

Joint districts are districts that are located in two or more adjacent AEAs. Planning for joint districts shall be conducted in the same manner as planning for single districts except as noted in section 275.8. Studies and surveys relating to the joint-district plan shall be filed with the AEA in which the district that has the greatest taxable property base is located. (275.8)

Planning for a joint district will include:

1. Preparing a written joint plan regarding the contiguous territory. The plan shall include the following evidence:
  - A plat of the entire area in the proposed district.
  - A statement of the number of resident students in the proposed district who were enrolled in public schools in the preceding school year.
  - A statement of the assessed valuation of taxable property located in the proposed district.
  - An affidavit signed by each affected AEA board stating that the boundaries as shown on the plat provided have been agreed upon by all the respective boards as part of the overall plan for school district reorganization.
2. Adopting the written joint plan at a joint session of all the AEA boards in whose areas the proposed district territory is located. (275.8)
3. Filing the plan with the Department of Education. (275.8)

When two or more AEA boards meet in a joint session to adopt the plan, the president of the board of the AEA in which the petition was filed, or the member designated by the president, shall preside. The vote of each member of an AEA board in attendance shall be weighted so that the total number of votes eligible to be cast by members of each board in attendance shall be equal. (275.16) For example, if two AEAs meet in joint session, each board is

entitled to 50 percent of the total vote. Therefore, if one board has nine members present, each member is entitled to a 5.555% weighted vote. If the other board has seven members present, each member is entitled to 7.143% weighted vote. The weighting is based upon the number of members present at the joint meeting. A majority of each board is required to be present to constitute a quorum. (275.16) A quorum of each of the AEA boards is necessary to transact business. (275.8)

If the joint boards cannot agree upon a plan, the matter shall be submitted to the Director of the Department of Education. Judicial review of the Director's decision may be sought. Petitions for judicial review must be filed within 30 days after the decision. (275.8)

### **Reorganization Plan Expenditures**

Expenditures for surveys and studies shall be included in the annual budget submitted by the AEA board. The expenditures are General Fund expenditures. (275.7)

## **AEA REORGANIZATION PLANS**

Sections 275.1 through 275.9 of the Iowa Code require each AEA to develop a reorganization plan and file the plan with the Director of the Department of Education. An AEA must review its plan whenever it receives a reorganization petition, and the AEA shall revise its plan periodically in order to reflect reorganizations that have taken place.

The AEA board shall develop detailed studies and surveys of the school districts within the AEA and all adjacent territory for the purpose of providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in the schools. The plans shall be revised periodically to reflect reorganizations which have taken place in the AEA and adjacent territory. (275.1)

The scope of the studies and surveys shall include, but not be limited to, the following matters in the various districts in the AEA and all districts adjacent to the AEA.

- The adequacy of the educational program.
- Pupil enrollment.
- Property valuations.
- Existing buildings and equipment.
- Natural community areas.
- Road conditions.
- Transportation.
- Economic factors.
- Individual attention given to the needs of students.
- The opportunity of students to participate in a wide variety of activities related to the total development of the student.
- Other matters that may bear on education programs meeting minimum standards required by law.
- Alternate plans proposed by school districts for sharing programs under section 28E.9, 256.13, 280.15, 282.7, or 282.10 as an alternative to school reorganization. (275.2)

In developing studies and surveys the AEA shall consult with the officials of school districts in the area and other citizens, shall from time to time hold public hearings, and may employ research and other assistance as reasonably necessary to properly carry on its survey and prepare definite plans of reorganization. In addition, the AEA shall consult with the Director of the Department of Education in the development of surveys and plans. The Director shall provide assistance to the AEA as requested and shall advise the AEA concerning plans of contiguous AEAs and the reorganization policies adopted by the State Board of Education. The AEA shall transmit its completed plan to the Director of the Department of Education. (275.4)

Following receipt of a petition for reorganization, the AEA shall review its plans and determine whether the petition complies with the plans which had been adopted by the AEA board. If the petition does not comply with the plans, the AEA shall conduct further surveys prior to the date set for the hearing on the petition. If further surveys have been conducted, the board shall present the results of the surveys at the hearing. (275.5)

The provisions of sections 275.1 to 275.5 relating to studies, surveys, hearings, and adoption of plans shall constitute a mandatory prerequisite to the effectuation of any proposal for district boundary change. It shall be the mandatory duty of the AEA board to dismiss the petition if the above provisions are not complied with fully. (275.9)

A sample reorganization plan may be found in Appendix A. The material contained in Appendix A is designed to provide guidance and suggestions to AEAs as they prepare their reorganization plans and is not intended to replace direct reference to the Code of Iowa.

## **Other Responsibilities of the Area Education Agency in Reorganization, Dissolution, Boundary Changes, and Inter-district Sharing**

### **The Petition Method of Reorganization**

The petition method of reorganization is described in Iowa Code Sections 275.11 through 275.22. These sections of the Code place much of the responsibility for reorganization on the AEAs in whose areas the proposed school districts are located. The AEA is actively involved in the reorganization of school districts.

#### **AEA Receives Petition**

The AEA board's first official action in the petition method is to receive and review the petition. The AEA shall, within ten (10) days after the petition is filed, fix a final date for filing objections to the petition which shall be no more than sixty (60) days after the petition is filed. At least ten (10) days prior to the final day for filing objections, the AEA shall publish notice of the date, time and place for the hearing on the petition. The hearing shall be held within ten (10) days of the final date set for filing objections. The AEA will conduct the hearing. In summary, the AEA board must do one of three things within ten (10) days of the conclusion of the hearing and publish the decision in the same newspaper in which the original hearing notice was published:

1. Dismiss the petition,
2. Fix the boundary lines as stated in the original petition, or
3. Amend the petition and fix the boundary lines as amended.

The ten (10) day requirement begins once the AEA has concluded the hearing/s. If the AEA determines that additional information is required in order to fix boundary lines of the proposed school corporation, the board may continue the hearing for no more than thirty (30) days. The date of the continued hearing shall be announced at the original hearing. (275.15)

Additional objections may be considered if filed with the AEA administrator within five (5) days after the date of the original board hearing. If the hearing is continued, the AEA administrator may conduct one or more meetings with the boards of the affected districts. Notice of these meeting must be given at least forty-eight (48) hours in advance by the AEA administrator. The AEA may request that the school district administrators make alternative recommendations regarding the boundary lines of the proposed school corporation. The AEA board shall make a decision on the boundary lines within ten (10) days following the conclusion of the continued hearing. (275.15)

The AEA board shall review the method of election in the petition and may change or amend the plan in any manner as required by law, justice, equity or the interest of the people. (275.12(4))

### **The AEA Board's Decision**

The citizens of a school district may be quite divided on the issue of whether or not to reorganize. They may also be divided regarding the district or districts with which they prefer to merge. Some reorganizations progress smoothly through this process, but many reorganization efforts become very complex. The situation is often further complicated when neighbors want to go in several different directions; thereby making it difficult to draw a boundary pleasing all parties. However, the AEA has broad authority to enter an order fixing the boundaries for the proposed school corporation as will, in the AEA's judgment, be for the best interests of all parties concerned, having duly considered the welfare of adjoining districts. Fixing boundaries is not so much a process of satisfying all parties involved, but rather is a process of developing school district boundaries that will stand the test of time. A decision on exclusion of territory shall balance the rights of the objector with the welfare of the reorganized district. (275.15)

In making its decision on boundaries, the AEA shall consider all available evidence, including, but not limited to:

- Information presented by the petitioners,
- All objections requesting territory exclusions,
- Reorganization studies and plans,
- Geographical patterns evidenced by students using open enrollment to attend school in another district,
- Potential travel distances required of students, and
- Geographic configuration of the proposed district. (275.15)

### **Preparation for Hearing**

The AEA administrator, or designated staff, will prepare materials to assist the AEA board members at the hearing and at the time the decision is being made. Following is suggested information to make available:

1. Procedures of the petition method.
2. Specific procedures applicable to AEA board and options available to board.
3. Copy of current AEA reorganization plan.
4. Copy of reorganization feasibility studies applicable to the current petition -- if any are available.
5. Copy of petitions.
6. Copy of objections.
7. Map(s) showing district boundaries and location of objectors.
8. List of objectors
  - a. Square miles of district and relative information for objected territory,
  - b. Number of residents and relative information for objected territory,
  - c. Number of students and relative information for objected territory.
9. Agenda for the hearing and for the decision time after the conclusion of the hearing.

### **Appeal Procedures**

Within twenty (20) days of the publication of the AEA Board's order, the decision may be appealed to the district court. This avenue of appeal applies only to school districts affected (those who filed reorganization petitions and are named in the petition). The appeal procedures in Iowa Code chapter 290 to the State Board of Education are not available for AEA board hearing decision on the reorganization petition under section 275.15, the hearing decision of a joint AEA board under section 275.16, and the AEA survey and reorganization plans under section 275.4. (275.15)

### **Reorganization Election**

After time for appeal has lapsed, the AEA administrator is required to set a date for a special reorganization election. When the boundaries of the territory to be included in a proposed school corporation and the number and method of

the election of the school directors have been determined, the AEA administrator shall give written notice of the proposed date of the election to the county commissioner of elections of the county in the district which is a party in the reorganization and which has the greatest taxable base. The date shall be set as soon as possible after the conclusion of the hearing, but not later than November 30 of the calendar year prior to the calendar year in which the reorganization will take effect on July 1. (275.18)

### **Refiling a Petition**

If the AEA dismissed the petition, a new petition describing the identical or similar boundaries shall not be filed for a period of six (6) months following the date of the hearing or the date of the vote of the AEA board, whichever occurs later. (275.17) If an election on a reorganization petition was defeated, a new petition describing the identical or similar boundaries shall not be filed for at least six (6) months following the date of the election. (275.22)

### **School Board Election Following a Successful Reorganization Election**

Under the regular method for election of directors, the AEA administrator calls for a special school board election after a successful reorganization election. The date is to be as soon as possible, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. Time is allowed for nomination papers. The number of directors and method of election will be as stated in the reorganization petition. (275.25, subsection 1).

### **School Board Organizational Meeting**

Under the regular method of election, the AEA administrator will call for an organization meeting within fifteen days of the special board election. Under the alternative method, the AEA administrator will call for an organization meeting within forty-five days of the reorganization election.

### **Reorganization Expenditures**

If a district is established or changes its boundaries, it shall pay all expenditures incurred by the AEA in connection with the proceedings. The county commissioner of elections shall assess the election costs to the district. If the proposition is dismissed or defeated at the election, all expenses shall be apportioned among the several districts in proportion to their assessed valuation of taxable property. These costs are General Fund expenditures. (275.26)

If a local school board does not properly pay the AEA costs apportioned to it, the AEA has recourse through the county treasurer. (275.26)

## **The Dissolution Method of Reorganization**

Dissolution is discussed in Iowa Code sections 275.51 through 257.57. The AEA is required to receive the certification from a local school board that a dissolution commission has been formed, the names and addresses of commission members, and that the commission members represent the various geographic areas and socio-economic factors present in the district. (275.51) The Code also grants to the dissolution commission the authority to seek assistance from the AEA. (275.52)

## **Dissolution by Involuntary Merger**

The AEA would have the same responsibilities for an involuntary merger that it has in a voluntary dissolution, as applicable. In addition, the AEA if requested by the Department of Education will be responsible for preparing and certifying the final certified annual financial report (CAR-COA) for the district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (25 D.o.E. App. Dec. 139)

## **Boundary Changes**

Boundaries may be changed without a reorganization or dissolution vote, in the following situations:

- When due to natural obstacles within the district, in the opinion of the AEA administrator, inhabitants of the school district cannot reasonably attend school in their own district. The AEA administrator shall attach the part affected by the natural obstacle to an adjoining school district with the consent of the board of the adjoining school district. (274.13)
- Territory attached to an adjoining school district due to a natural obstacle may be reattached to the original district from which that territory was severed if the natural obstacles have been removed. This restoration of territory requires the concurrence of the respective boards and the AEA administrator as well as the written application of 2/3 of the electors residing upon the territory to be reattached. (274.14)
- Boundary lines of contiguous school districts may be changed by the concurrent action of the respective boards at their regular July meetings or at a special meeting called for that purpose. The concurrent action is subject to the approval of the AEA board, unless the AEA does not take action within 30 days following receipt of notice, in which case the concurrent action of the boards is considered approved. (274.37)

Concurrent action may be used to transfer specific parcels of land from one district to another district providing the land is contiguous to the receiving district. Concurrent action is subject to the approval of the AEA board. However, if the AEA board does not disapprove the concurrent action within thirty days following receipt of notice, the concurrent actions of the local board shall stand. (274.37)

## **Whole-Grade-Sharing**

The AEA does not have a direct role in whole-grade-sharing agreements between districts. (282.18) However, the AEA is responsible for conducting a feasibility study related to entering a whole-grade-sharing arrangement if requested by the Director of the Department of Education following receipt of a petition from the patrons of the district and for approving bus routes.

### **Feasibility Study**

Within thirty (30) days of the public notice, a petition signed by twenty percent (20%) of the eligible electors in the district may be filed with the Department of Education requesting a feasibility study. The Director of the Department of Education may determine that a feasibility study conducted by the district's board satisfies the request if the study meets the criteria included in section 256.9(34). The Director can direct department staff to complete the



feasibility study or can direct the AEA in which the district is located to conduct the feasibility study. The feasibility study shall include a cover page containing recommendations and a short explanation of those recommendations.

The criteria to be used in determining the recommendations include, but are not limited to:

- a. The possibility of long-term survival of the proposed alliance.
- b. The adequacy of the proposed educational programs versus the educational opportunities offered through a different alliance.
- c. The financial strength of the new alliance.
- d. Geographical factors.
- e. The impact of the alliance on surrounding school districts. (256.9(34))

### **Bus Routes**

The AEA must review and approve all transportation arrangements between districts in the AEA and in all districts in the AEA not operating high schools, and if a sharing agreement provides for a bus route outside the boundary of the district operating the bus, the AEA board must approve the bus routes. (285.9)

## **Improvement of Programs and Operations**

It is the duty of the AEA administrator, when requested, to provide such assistance as possible to school districts in the AEA for the general improvement of their educational programs and their operations. (273.4)

## **CHAPTER 2**

### **SHARING OPPORTUNITIES AND REORGANIZATION INCENTIVES**

Sharing is a general term applied to several types of cooperative programs between two or more public school districts. Sharing involves contracts between two districts to share students, teachers, other staff, operational functions, facilities equipment, or similar joint ventures. Sharing is often proposed in legislation as an incentive toward reorganization. Some sharing, but not all, will generate supplementary weighting under the Iowa school foundation formula in Iowa Code chapter 257.

#### **Legal Considerations**

Several sections of the Code of Iowa directly address sharing between school districts. Since sharing is a legal action involving a contract between two districts, the boards of directors are advised to use the assistance of legal council familiar with school operations for writing resolutions and for developing a contract. Further, the boards are advised to reference the applicable sections of the Iowa Code in the resolution and contract.

1. Chapter 28E grants broad powers to local governments to enter into joint services among themselves. In 28E.9 authority is granted for interstate compacts.
2. Section 256.13 states that two or more school districts may provide for attendance of students residing in one district in the schools of another district for courses not offered in the district of residence.
3. Section 275.1 requires that all areas of the state shall be in school districts maintaining kindergarten and twelve grades. If a school district ceases to maintain kindergarten and twelve grades except as authorized in Iowa Code sections 28E.9, 256.13, 280.15, 282.7, subsection 1 or subsections 1 and 3, or 282.8, it shall reorganize within six months or the state Board of Education shall attach the school district to one or more adjacent districts.
4. Section 280.15 provides that any two or more school districts may jointly employ and share the services of school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities.
5. Section 282.7(1) allows a board of directors to discontinue any or all of grades seven through twelve and send the students to one or more contiguous school districts having accredited school systems. Only entire grades may be discontinued, and if a grade is discontinued, all higher grades in that district shall also be discontinued. A student who graduates from another school district under this Code section shall receive a diploma from the receiving district. The boards entering into an agreement to share under this Code section shall include in the agreement a provision for transportation, authority and liability of the affected boards, and the method for sharing costs and expenses as provided in sections 282.10 through 282.12. Section 282.7(3) extends the provisions of 282.7(1) to sharing with one or more districts in a contiguous state under a reciprocal agreement by the two state Boards of Education.
6. Section 282.8 provides that school district located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the contiguous state is nearer than any appropriate public school in the pupil's resident district or in Iowa. These arrangements are subject to reciprocal agreements between the state Chief School Officers in each state.
7. Section 282.10 provides that a district may whole-grade-share students. Whole-grade-sharing is a procedure used by school districts whereby all or a substantial portion of the students in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7 subsection 1 or subsections 1 and 3. Whole-grade-sharing may be either one-way or two-way.
8. Care should be exercised to address other applicable sections of Iowa Code. For example, in Iowa Code section 285.9, the AEA must review and approve all transportation arrangements between districts in the AEA and in all districts in the AEA not operating high schools, and if a sharing agreement provides for a bus route outside the boundary of the district operating the bus, the AEA board must approve the bus routes.

#### **Types of Sharing**

There are three basic types of sharing. However, there may be some overlap. Not all sharing is eligible for supplementary weighting.

1. Support service sharing involves sharing the services of personnel such as superintendents, guidance counselors, teacher librarians, school nurses, transportation directors, facility managers, human resources or business managers, etc. This type of sharing is the easiest to implement. Divergent class schedules, dissimilar school calendars, etc. do not overly impede the cooperation. The major drawback is the ability to staff these services. Since the positions involve travel between school districts and working for two employers, the jobs are not as attractive as other school positions, and travel is time consuming and expensive.
2. Instructional program sharing involves sharing the services of the teaching staff, or involves transporting students between districts for instructional programs. Sharing of this nature is widespread in Iowa and involves many different subject matter courses. If teachers travel, this may be a problem for recruiting and retaining staff. If students travel, travel is time consuming and expensive. This type of sharing requires a moderate degree of coordination for differences in class schedules and calendar years. Some shared programs, such as alternative schools, are operated as consortia with one district acting as the fiscal agent.
3. Whole-grade-sharing involves sending all or a substantial number of students from one or more grade levels to another district for all or a substantial portion of the educational program. For example, a two-way arrangement may include junior high students from both districts being taught in one district and high school students from both districts being taught in the other. The sharing may also be one-way; such as one school district sending all secondary students to another district, without any grades coming back to the sending district. Many grade configurations are possible. The term “whole-grade-sharing” is a misnomer in that all of the students in a grade do not have to be shared, only a substantial number, and the students do not need to be shared for the entire day, only a substantial portion of the day. This very comprehensive sharing requires careful and thorough planning. The programs of the districts become merged to a large degree. More attention must be given to potential problems and expenditures, such as added bus routes and transportation costs.

### **Sharing Agreement**

Developing the sharing agreement involves three separate stages. These stages do not always occur in a distinct order and may be intermingled.

Stage One. The board adopts a resolution as a commitment to share. This may take the form of an elaborate document drafted by an attorney and approved by the board, or it may be a less complex motion directing the development of a contract. Generally, a resolution could be amended or rescinded by the board. Publication of a notice to share and holding a public hearing is required for some sharing agreements.

Stage Two. The boards of the districts sign a contract. The contract between the two or more districts is a binding legal contract if it has been properly written and agreed upon. The contract may range from being a general document to an agreement including many details. The wording and level of detail depends upon the needs of the school districts and the necessity to make an enforceable contract. The boards developing the contract must convey the original intent of the agreement for future board members. A few provisions that may be in the contract are:

- a. Applicable Iowa Code references.
- b. Services and/or personnel to be shared.
- c. Financial considerations.
- d. Duration of contract.
- e. Methods for contract renewal, with a date for review of the contract.
- f. Methods for contract termination and disposition of jointly acquired property or liabilities.
- g. Provisions for mutual policies and administrative rules.
- h. Provisions for conflict resolution.
- i. Other provisions as necessary.

The contract must address Teacher Quality funds per Iowa Code 282.10(4), as amended by HF 2679 (section 75).

Stage Three. Mutual board policies and administrative rules are very beneficial for the smooth operation of a sharing program. Very few policies and rules may be required for the sharing of support programs, more would be needed for

sharing of instructional programs, and many more are advised for whole-grade-sharing. The policies and rules may be developed before and/or after the approval of the contract. Some conditions, such as school calendar, may be controversial enough to prevent final approval of the contract. Other conditions, such as book rental fees may seem inconsequential, but disagreement over the topic could lead to other problems. Following are items that may be addressed in common policies and rules; however, very few of these would be needed for the lesser forms of sharing:

- a) School calendar.
- b) Daily schedule.
- c) Discipline—including expulsion, suspension and other penalties.
- d) Absences.
- e) Administrative authority of staff and students.
- f) Scheduling school and non-school events in the buildings.
- g) Co-curricular activities and participation.
- h) Textbook fees.
- i) Lab fees and other legal school fees, including waiver of fees.
- j) Transportation of students.
- k) Graduation, diplomas, and class rank.
- l) Common activities, such as prom, annual banquets, honors program, etc.
- m) Uniforms for teams, athletic award letters, choir robes, school colors, school nickname, etc.
- n) Assigning staff for supervision of lunchroom, before and after school activities, etc.
- o) Open or closed noon hour.
- p) Yearbook, class rings, etc.
- q) Teacher supervision, authority, and responsibility.
- r) Responsibility for and evaluation of traveling teachers.
- s) Bargaining agreement coordination.
- t) Good Conduct Policies

The above are just a few typical board policies or administrative rule topics that may need adjustment because of sharing. As can be seen from the list, if the sharing merely involves an agreement to jointly employ and share the services of the superintendent, very little common policy is needed; however if all elementary students are taught in one district and all secondary in the other, an extensive review will be necessary.

### **Administrative Planning**

Although the decision to share and the degree to which sharing is undertaken are board matters, the guidance and support of the administrative staff are essential. During the process of proposing the sharing concept, developing the resolution, and writing the contract, the administrators are supporting fundamental board action. A large amount of detailed planning needs to take place by the administrative staff in support of the board action. Some sharing agreements provide for board and administrative staff to function as a committee.

**Common Policies and Administrative Rules.** Developing the common policies and rules can be accomplished by a joint administrative review of each district's board policy book, teachers' handbook, students' handbook, and other appropriate documents. The board policies, of course, then need concurrent action by both boards, and boards are advised to review and act upon the common rules that are in the form of rewritten handbooks.

**Financial Considerations.** The contract should address the financial considerations. This issue will need the careful attention of the administrators. The basic recommendation is to keep finances as simple as possible and as fair as possible. An easy-to-use basis for paying for shared services is to use the legally prescribed maximum tuition rate (district cost per pupil) of the receiving district in Iowa Code section 282.24. If districts are sending or receiving a substantial number of students in any grade for a substantial portion of the school day, inclusion of the financial arrangements in the contract is required and the method is set forth in Code. For one-way, whole grade sharing, the tuition shall be no less than one-half (1/2) of the maximum tuition rate (district cost per pupil) of the sending district. In two-way whole-grade-sharing, the tuition shall be determined by mutual agreement of the boards. (282.12) The maximum tuition rate does not apply to two-way whole-grade sharing established under Iowa Code 282.7(1). (282.24)

Except under whole-grade-sharing, the tuition to be charged for students taught in another district is the full maximum tuition rate of the receiving district if the entire program is provided by the receiving district. If sharing involves only part of the instructional program, the maximum tuition rate must be prorated. For example, if a student attends two classes a day in another district and if a full day is seven periods, the cost would be two-sevenths times the maximum tuition rate in the receiving district.

The number of pupils participating in whole-grade-sharing shall be determined twice each year. The first count date is the official certified enrollment count date specified in subsection 257.6(1), which is October 1. The second count date for whole-grade-sharing is on the third Friday of February. (282.12(4)) Students with IEPs must have tuition paid according to actual costs, so would not be included in the whole-grade-sharing counts for determining whole-grade-sharing tuition.

If staff is shared rather than students, generally the cost of the employee is shared, including employee benefits and travel, as negotiated by the boards, rather than using a per-pupil tuition. This arrangement generally is through an employee contract in one district with a charge to the other district for the portion of the teacher's contract utilized by that district. When two or more districts have separate contracts with the same employee, that arrangement is not considered to be a sharing arrangement.

The Iowa Code provides for additional funding through a supplementary weighting plan for school districts entering into certain sharing agreements. (257.11)

For a more detailed discussion of Finance related to whole-grade-sharing, refer to Chapter 9 of this publication.

### **Political Considerations**

Political considerations, particularly with whole-grade-sharing, may become the overriding issue to the board of directors. A sharing plan may be deemed vital to a school's education program and may be well planned, but could be unacceptable to the citizens. As a board contemplates, plans, and implements sharing, there are three basic axioms to keep in mind.

1. The more comprehensive the sharing program, the more potential there is for community problems. A complete sharing, such as sending all secondary students to a neighboring district may be viewed as a form of reorganization.
2. Boards contemplating sharing, especially whole-grade-sharing, need to pay careful attention to due process. Iowa Code Section 282.11 provides a timeline to follow. In addition, consider the following:
  - a) Adhere to Chapter 21 of the Code of Iowa, entitled "Official Meetings Open to the Public".
  - b) Keep a record of administrative actions, board actions, public involvement, and assistance from outside parties.
  - c) Establish a timeline for making a final decision.
  - d) Inform all segments of the community of the important decision under consideration.
  - e) Involve the public in providing input into the study and planning.
  - f) Conduct sufficient research, study and planning by the board.
  - g) Conduct an open and frank public discussion of the facts and issues involved.
  - h) Maintain a proper record of all steps taken in making the decision.
  - i) Make the final decision in an open public meeting and maintain a record of the decision made.
3. The decision to share is within the authority of the local boards of directors.

## **Sharing**

## **Shared Support and Administrative Services**

Any powers, privileges or authority capable of exercise by a public agency of Iowa may be exercised and enjoyed jointly with any other public agency of Iowa having such powers, privileges or authority. (28E.3)

Joint exercise of powers, privileges or authority does not relieve any public agency of any obligation or responsibility imposed upon it by law. (28E.7)

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the contract is authorized by law to perform. (28E.12)

A supplementary weighting plan is available, up to 5 years, (through fiscal year 2014) for districts that share operational functions with other public agencies and thereby increase student opportunities. A district may share one or more operational functions in the areas of superintendent management, business management, human resource management, transportation management, or operation and maintenance management for at least 20 percent of the school year. The supplementary weighting originally received will be reduced by an additional 20 percent from the original amount for each subsequent budget year that supplementary weighting is received. (257.11(6))

## **Shared Programs/Consortia**

If a district does not provide an interscholastic activity for its students, the board of that district may complete an agreement with another school district to provide for the eligibility of its students in interscholastic activities provided by that other district. It is not required that the district sharing an interscholastic activity must also share academic programming. (280.13A)

Two or more districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities. (280.15)

## **Shared Teachers, Courses and Students**

The boards of two or more districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the resident district. The boards may also provide by agreement that the districts will combine one or more grades. (256.13)

Teacher is defined as a licensed member of the district's instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner which is consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and uses the student evaluation or assessment information to promote additional student learning. (272.1(15))

The board of a district may discontinue any or all of grades 7 through 12 and negotiate an agreement for attendance of the students enrolled in those grades in the schools of one or more contiguous districts. If the board designates more than one contiguous district, the board shall draw boundary lines within the district for determining the districts of attendance. Only entire grades may be discontinued under section 282.7, and if a grade is discontinued, all higher grades in that district shall also be discontinued. (282.7(1))

A supplementary weighting plan is available to provide additional funds for districts that send their resident students to another district, that jointly employ and share the services of a teacher, or that use the services of a teacher employed by another district. (257.11(2)(a))

## **Whole-Grade-Sharing**

### **Whole-Grade-Sharing Procedures**

Whole-Grade-Sharing Procedures are outlined in Iowa Code section 282.11.

1. 1. No less than ninety (90) days prior to signing a whole-grade-sharing agreement, the board of directors of each school district that is negotiating, extending, or renewing a sharing agreement, shall publicly announce its intent pursuant to Iowa Code subsection 21.4(1). That Code subsection states that the board shall give notice of the time, date, and place of the meeting, and its tentative agenda, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the board and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the board, or if no such office exists, at the building in which the meeting is to be held.
2. Within thirty (30) days of the public notice, a petition signed by twenty percent (20%) of the eligible electors in the district may be filed with the Department of Education requesting a feasibility study. The Director of the Department of Education may determine that a feasibility study conducted by the district's board satisfies the request if the study meets the criteria included in section 256.9(34). The Director can direct department staff to complete the feasibility study or can direct the AEA in which the district is located to conduct the feasibility study. The feasibility study shall include a cover page containing recommendations and a short explanation of those recommendations. The criteria to be used in determining the recommendations include, but are not limited to:
  - a. The possibility of long-term survival of the proposed alliance,
  - b. The adequacy of the proposed educational programs versus the educational opportunities offered through a different alliance,
  - c. The financial strength of the new alliance,
  - d. Geographical factors,
  - e. The impact of the alliance on surrounding school districts. (256.9(34))
3. No less than thirty (30) days prior to signing a whole-grade-sharing agreement, the board of each district that is a party to the proposed sharing agreement shall hold a public hearing. At the hearing the proposed agreement will be described and the parent or guardian of an affected pupil or certificated employees of the district may make comments on the proposal. An affected pupil is one who is attending or would be attending a district other than the district of residence under the proposed plan.
4. During the thirty (30) days prior to signing the agreement by the boards, the parent or guardian of an affected pupil may request of the board to send the pupil to another contiguous school district. The request must be based on either (a) that the proposed agreement will not meet the educational program needs of the pupil, or (b) that adequate consideration was not given to geographical factors. The board shall allow or disallow the request prior to signing the agreement; otherwise, the request is deemed to have been allowed. If the board disallows the request, it must indicate its reasons and notify the parent or guardian that its decision may be appealed to the State Board of Education by the parent or guardian no later than March 1 using the same basis as used in the request to the board. The parent or guardian must specify the alternative contiguous district to which it wishes to send the pupil.
5. The State Board of Education may deny the appeal or may require the resident district to tuition the pupil to the contiguous school district specified by the parent or guardian. The tuition would be the same as that negotiated in the whole-grade-sharing agreement. The standard of review for the decision of the State Board of Education is a preponderance of evidence that the parent's or guardian's hardship outweighs the benefits and integrity of the sharing agreement. (282.11)
6. A whole-grade-sharing agreement shall be signed by the boards of each district involved in the agreement no later than February 1 of the school year preceding the school year for which the agreement is to take effect. The boards of the districts shall negotiate as part of the new or existing agreement the disposition of teacher quality funding provided under chapter 284. (282.10). No other state or local funding follows a

student under whole-grade-sharing. However, under Iowa Code section 423E.5, a district may enter into a 28E agreement with another district that is located partially or entirely in or is contiguous to the county where the school district is located to share its revenues from its sales and services tax for school infrastructure. The shared revenue shall be expended for infrastructure purposes only. This agreement to share sales and services tax for school infrastructure is a separate agreement from a whole-grade-sharing agreement even though it may be with the same district.

Adding more grades to an existing whole-grade-sharing agreement is considered an extension of the existing agreement, so it requires that Iowa Code section 282.11 guidelines be followed. This is for the purpose of giving patrons an opportunity to petition the Department of Education to request a feasibility study and to give parents of students in the affected grades the opportunity to file timely open enrollment applications.

A whole-grade-sharing handbook is available on the Department of Education's website:

<http://www.iowa.gov/educate/content/view/486/532/>

### **Transportation**

In a district where transportation by school bus is impracticable, where necessary to implement a whole-grade-sharing agreement, or where school bus service is not available, the board may require parents or guardians to furnish transportation for their children to the schools designated for attendance. Reimbursement may be available. (285.1(3))

### **Open Enrollment**

Good cause for late applications for open enrollment as defined in Iowa Code section 282.18(4)(a) includes a change in the status of the student's resident school district and the failure of negotiations for whole-grade-sharing, reorganization, dissolution agreement or the rejection of a current whole grade sharing agreement, or reorganization plan. If the good cause relates to a change in status of a student's school district of residence, however, action by a parent or guardian must be taken to file the notification within 45 days of the last board action or within 30 days of the certification of the election, whichever is applicable to the circumstances.

### **Hiring Preference**

The district terminating employees as a result of a whole-grade-sharing agreement shall notify other districts that are parties to the agreement of the individuals who were terminated. Individuals who were employed by a district that entered into a whole-grade-sharing agreement and who were terminated as a result, shall be notified that new positions exist and they may apply. The board shall offer the new position to an applicant from among those who were terminated as a result of the agreement, if the applicant is licensed for the new position, or in the case of unlicensed personnel, if otherwise qualified. If two or more individuals from those terminated as a result of the agreement apply for a single position, the applicant who is best qualified, in the opinion of the board, shall be offered the position. The board is not required to offer a new position to the applicants who were terminated as a result of the agreement beyond two years. (280.15(1))

### **Continuation of Benefits**

An employee who accrued benefits before a whole-grade-sharing agreement resulted in the individual's termination, shall not, as a result of reemployment by a partner to the agreement, forfeit vacation, sick leave, longevity, completion of probationary status, or salary or placement on a salary schedule based on the employee's years of experience. (280.15(1))



## **Shared Facilities**

Before proceeding to construct or purchase a facility as otherwise authorized by law, a public agency shall inquire of other public agencies having facilities within the same general geographic area concerning the availability of all or part of those facilities for rent or sharing. If there are no suitable facilities available for rent or sharing, the governing body of the public agency shall record its findings in its meeting minutes. (28E.18)

## **Tax Sharing**

A district may enter into an agreement under chapter 28E with a contiguous district for the purpose of sharing all or a portion of the taxes collected from that portion of valuation for tax increment financing that is released by the municipality to the district. (279.64)

School districts may jointly issue general obligation bonds to fund separate projects proposed in each district and, by pooling their debt obligations, to realize a savings for taxpayers in each of the participating districts. (28E.42)

## **Supplementary Weighting Plans**

Supplementary weighting is available, under certain circumstances for:

- Districts that send their resident students to another school district for classes other than whole-grade sharing,
- Districts that jointly employ and share the services of teachers,
- Districts that use the services of a teacher employed by another school district,
- Districts that share students for all or a substantial portion of the day under a whole-grade-sharing 28E arrangement (ends July 1, 2014),
- Districts that send their resident students to community college courses other than PSEO,
- Districts and AEAs that share operational functions that result in increased student opportunities.

These supplementary weighting opportunities are available on the certified enrollment and are requested by the district and approved by the School Budget Review Committee (SBRC).

In addition to supplementary weighting that is requested by districts, there is also a supplementary weighting that is automatically added to each district's Aid and Levy Worksheet. That supplementary weighting is for at-risk programs and alternative schools. This is categorical funding that supplements, but does not supplant, General Fund expenditures.

More information is available on supplementary weighting eligibility in Iowa Administrative Code 281—97 available on the website at: <http://www.legis.state.ia.us/Rules/Current/iac/281iac/28197/28197.pdf>

## **Reorganization Incentives**

### **Whole-Grade-Sharing Supplementary Weighting Carryforward**

If districts that have been whole-grade sharing reorganize on or after July 1, 2007, and on or before July 1, 2014, the newly reorganized district may be eligible for a carryforward of the whole-grade-sharing supplementary weighting equal to the pupils added by the supplementary weighting plan for whole-grade-sharing in the year preceding the reorganization. The weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district. The weighting is available for a period of three years following the effective date of the reorganization. (257.11A)

### **Reduction in Foundation Property Tax Levy**

A reorganized school district shall levy a foundation property tax of \$4.40 per thousand dollars of assessed valuation on all taxable property which, in the year preceding a reorganization, was within a school district affected by a reorganization, or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the Director of the Department of Education. In succeeding budget years, the foundation property tax levy on that portion shall be increased:

- \$4.90 per thousand dollars of assessed valuation the first succeeding year,
- \$5.15 per thousand dollars of assessed valuation the second succeeding year,
- \$5.40 per thousand dollars of assessed valuation the third succeeding year and each year thereafter.

The reduction in foundation property tax levy is available if one of the following applies:

- (a) In the year preceding the reorganization or dissolution, the district affected by the reorganization or the district that dissolved had a certified enrollment of fewer than 600 students.
- (b) In the year preceding the reorganization or dissolution, the district affected by the reorganization or the district that dissolved had a certified enrollment of 600 students or greater, and it entered into a reorganization or dissolution with one or more districts with a certified enrollment of fewer than 600 students. The amount of the reduction received by a qualifying district shall not exceed the highest reduction amount received by any of the districts with a certified enrollment of fewer than 600 students involved in the reorganization.

A reorganized district for purposes of the reduction is defined as a district which absorbs at least 30 percent of the enrollment of the district affected by a reorganization or dissolved during a dissolution and in which action to bring about the reorganization or dissolution is initiated by a vote of the board or jointly by the affected boards to take effect on or after July 1, 2007, and on or before July 1, 2014. The district shall notify the Department of Education by January 1 of the year in which the reorganization or dissolution takes effect. (257.3)

If the dissolution is for a district with a certified enrollment of fewer than 600 students, the territory located in the district that dissolved is eligible, if approved by the Director of the Department of Education, for a reduction in the foundation property tax levy. If the Director approves the reduction, the Director will notify the director of the Department of Management. (275.55)

## **CHAPTER 3**

### **GUIDELINES FOR SPECIAL CITIZENS' ADVISORY COMMITTEES AND STUDIES**

The purpose of this chapter is to provide an outline of the basic steps that may be taken by a school board as it plans for school district reorganization, dissolution, or whole-grade-sharing. The concept of citizen involvement suggests that the board measures the public sentiment, informs the citizens of the possible need to reorganize or share, and conveys the board's recommended action to the voters. Usually, through the routine operation of open board meetings, the public will be aware of the board's discussion of reorganization or dissolution. However, because of the extreme importance and consequences of the topic, a board is urged to plan and inform the public of the steps it will take to bring the citizens into the process.

Once a board agrees that whole-grade-sharing may be a way to improve its educational program, it may conduct a feasibility study. The board and school staff may conduct this study or it may be turned over to an outside group. The board has the option to form a citizens' committee or request a study from university staff, auditors, associations, or other outside parties with expertise in this area.

Citizens may also request a feasibility study if the district is considering whole-grade-sharing. If the district is considering whole-grade-sharing, within thirty (30) days of the public notice, a petition signed by twenty percent (20%) of the eligible electors in the district may be filed with the Department of Education requesting a feasibility study. The Director of the Department of Education may determine that a feasibility study conducted by the district's board satisfies the request if the study meets the criteria included in section 256.9(34). The Director can direct department staff to complete the feasibility study or can direct the AEA in which the district is located to conduct the feasibility study. The feasibility study shall include a cover page containing recommendations and a short explanation of those recommendations. The criteria to be used in determining the recommendations include, but are not limited to:

- a. The possibility of long-term survival of the proposed alliance.
- b. The adequacy of the proposed educational programs versus the educational opportunities offered through a different alliance.
- c. The financial strength of the new alliance.
- d. Geographical factors.
- e. The impact of the alliance on surrounding school districts. (256.9(34))

*Eligible elector* is a person who possesses all of the qualifications necessary to entitle that person to be registered to vote, whether or not the person is in fact registered to vote. (39.3(6)) *Registered voter* is an eligible elector who is registered to vote. (39.3(11))

School reorganization is a citizens' process and may be accomplished without any board involvement. However, a successful reorganization is more likely if the school board takes action as a proponent of reorganization. Citizens may initiate the reorganization petition, and they must sign the petition. Citizens also control school district dissolution in that the dissolution commission, once appointed, develops the proposal. Also, citizens may require the board to form a dissolution petition by submitting a petition. The final answers for both the petition and the dissolution methods, however, come from the voters at an election.

Another important aspect of citizen involvement is the school board appointed special citizens' advisory committee -- or study committee. This is "unofficial" citizen involvement in that the committee does not have legal authority in the school district merger process. Citizens may form committees without board action or even board approval. However, this publication deals with board-appointed committees. This chapter is intended for members of school district boards who believe there may be a need to reorganize or share, who want to study the issue, and who would be willing to begin the legal process if whole-grade-sharing or reorganization is determined to be a method for improving the educational opportunities offered to the students of the district.

## **Special Citizens' Advisory Committee**

### **Establishing the Committee**

Once a school board decides to establish a merger study committee, it has several decisions to make very early in the process. The following list is not intended to profess a "best" method, but rather to help the board visualize the options available.

1. How much authority will be given to the committee? This question is first because all of the following questions may be answered by the board, or some may be answered by the committee.
2. How is the committee selected?
3. Will neighboring districts be involved, and if so, which districts? A study that does not involve neighbors would be far more tentative in nature than one that includes other districts.
4. What is to be the size of the committee?
5. Will the board select the chairperson and/or chairpersons?
6. Will the committee use outside consultants from the area education agency, associations, or elsewhere?
7. Is the committee to answer the question as to whether the district would improve its educational program if it merged (reorganized, dissolved, or whole-grade-shared)?
8. If the committee does recommend a merger, is the committee expected to develop a plan to reorganize, dissolve, or whole grade share?
9. Will the committee be expected to continue functioning beyond the presentation of a report?

There are no absolute answers to these questions. The board must establish its own plan. The board has the control to establish or disband a committee; however, once it organizes a committee, it cannot prevent a group of citizens from meeting, acting, or eventually forcing an election to reorganize.

### **Selecting Committee Members**

As above, the board has several decisions to make. Again, there are no right or wrong answers.

1. Does the board select all committee members?
2. After a chairperson or nucleus is selected, do these people choose the rest?
3. How representative of geography, age, occupation, gender, etc., is the committee to be? The board is encouraged to ensure that the committee includes representation from all factions of the school district.
4. How are replacements named?
5. Will the school board be represented on the committee? During the past several years of school district merger activity, there have been scores of committees formed, and the predominant practice has been to limit board membership on the committees.
6. Will administrative staff be represented on the committee? The common practice is to appoint the superintendent as a resource to the committee, with otherwise limited participation on that person's part. Principals are much less likely to become involved. Their participation is usually restricted to the committee's need for technical advice on school program.
7. Will other school employees be represented on the committee? The common practice is to limit teacher and other employee participation. School employees can offer certain insights, but boards want the committees to be clearly independent of in-house school interest groups.

### **Organizing the Committee**

The school board may organize the committee to the extent that it feels is necessary. However, this section illustrates that a large share of the organizing authority and responsibility may rest with the committee itself.

1. The first meeting should be called by the board, or by a selected committee member if the board chooses that method.
2. One of the first orders of business is to select a chairperson.
3. The school board should communicate its expectations to the committee.

4. Establish a group of subcommittees using the topics to be covered in a feasibility study as a basis for determining the committee structure, and possibly each subcommittee could take responsibility for two or three topics.
5. The key to organizing is to know what needs to be done, who is to do the work, and then match the "what" and "who".
6. After the committee is structured, meeting times and dates need to be determined. Deadlines for certain activities are established.
7. Develop a directory of committee members' names and phone numbers.
8. Review Open Meeting Law and Public Records Law requirements.

### **Board and Committee Relationships**

Up to a certain point, the school board has set the pattern. At some time, the committee takes over and follows its own direction under the conditions determined by the board. Following are arrangements the committee might want to make with the board.

1. Who are the contact people on the board and administration?
2. What school facilities are available for use by the committee?
3. Are secretaries available for typing and printing?
4. Will travel expenses be reimbursed, and if so, by what procedures?
5. Does the committee have access to the school mailing system?
6. May the committee use the school telephones for long distance calls?
7. How do committee members obtain information from school staff?

## **Feasibility Study**

### **Feasibility Study Overview**

1. **School enrollment and district population** are the key considerations. Plainly stated, if a district has 1200 students, reorganization is not the vital subject it is in a district with 200 students. The larger district may be receptive to having a smaller district join with it, but it does not place the loss of identity on its lists of concerns. Two districts of 600 enrollment each need to understand that their union could form a district of 1200, and such an enlarged district will perform like other districts that size.

A merger that yields a potential of 1500 students will only be moderately concerned about loss of territory and students to a contiguous district. Consolidation that produces only 400 children will most certainly be involved in an extreme effort to keep all territory intact. This may be true in spite of the fact that geographical common sense dictates the assignment of territory to districts that have attendance centers more conveniently located for some patrons. In general, the feasibility study committee must analyze enrollment, population, and demographics.

School enrollment is largely an element of population demographics. Numerous individual circumstances are analyzed. For example, two districts with 600 students each may be heading in opposite directions if one is a suburban district in the more stable metropolitan areas and the other a farm-supported town surrounded by farms requiring fewer and fewer people to operate.

2. There are three major criteria that dominate all others: **educational program, geographical factors, and long term stability.**

The **educational program** does not relate as much to the existing programs as it does to the potential program of the newly united district. Less speculation is necessary when a smaller district joins a larger one. The characteristics of the larger district usually remain somewhat static after a merger. On the other hand, if two districts of 500 join, the new program could be significantly altered.

**Geographical factors** are of prime importance. Consider all geographical factors unique to the district.

**Long-term stability** is not an easy concept to address, but it needs to be studied if a community does not want to go through another round of reorganization within a few years in a declining enrollment situation. The Committee may recommend short-term solutions if the more long-term actions are not available at the present time or if the immediate needs naturally lead toward the more lasting answers.

3. Several other factors are considered: **finances, facilities, transportation and personnel**. Often, but not always, problems in these areas can be overcome.

### **Visualizing a Plan**

While considering the above guidance, the Committee will visualize a plan for a district, for several districts, and for the surrounding area.

1. Buffers will be located. These are barriers resulting from the location of large communities, existing dominant county-sized districts, and natural geographical barriers.
2. Potential county districts are identified. This does not mean that a county or county-like district is advocated, but that the committee must look for situations where they seem inevitable. In order for this to be possible, the county must be close to, or smaller than, an average-sized county (24 miles by 24 miles). The dominant municipality (usually county seat) needs to be located centrally, and the county should not contain other dominant municipalities.
3. Which district or districts include dominant municipalities are determined.
4. Rural coalitions are analyzed. These are existing or potential districts that are too far removed from buffers or dominant communities.
5. The Committee will examine the effect a proposed merger has on neighboring districts. The Committee should consider if other districts left out of planning might in turn be stripped of their viable options.

It is important to emphasize that each study is individual. The above guidance is an effort to explain the rationale followed in previous studies and is only intended to provide boards of directors with some assurance that the study was valid and reliable.

### **Preparing for the Study**

A few more questions remain to be answered before the study can begin in earnest.

1. Are outside consultants to be contacted? The area education agency is in a position to help.
2. If other districts are to be involved, will the committees or subcommittees of all districts involved act jointly on portions of the study? The various committees can meet both separately and jointly.
3. Are there factors in the community that have to be considered before the study begins? What interest groups might help or hinder?
4. The basic questions the study committees are seeking to answer may vary, depending upon what the schools are doing at the time. For example, two districts that are operating independently and thinking about whole-grade-sharing are in much different positions than are two districts that have been whole-grade-sharing for many years and are now planning a reorganization. However, each study committee should be expected to respond to a set of primary questions. A few examples are:
  - a. Is the school district providing an adequate or better than adequate educational program appropriate for the needs of the students and community?

- b. Would the increased enrollment resulting from whole-grade-sharing or reorganization help provide a better program?
- c. If whole-grade sharing or reorganization is to take place, what would be the best plan?
  - which district or districts?
  - reorganize, dissolve, or whole grade share?
  - which grade levels, educational programs, etc.?
- d. Should reorganization follow a whole-grade-sharing partnership?

### **Conducting the Study**

By now, the committee structure is in place. Leaders have been selected, members have been appointed, tasks have been assigned, and data gathering may begin. This section refers to the type of information included in the reorganization feasibility reports.

1. Overview, Conclusions and Recommendations. This part of the report is often placed at the beginning of the document.
2. Educational Programs. If school enrollment is the key to a merger study, an improved educational program is what needs to be achieved from merging.
  - a. Determine what high school courses are offered now and how many students are enrolled in each course using the class schedule. Include the number of students enrolled in each section. The schedule may be for one semester only. Care should be taken that the schedule matches the personnel roster. For example, if seven mathematics courses are taught, we can expect that the district employs approximately 1.5 math teachers at the high school level.
  - b. Develop a course offering, with estimates of number of pupils for a combined district.
  - c. Develop a junior high school (or middle school) plan, similar to that in a. and b. above.
  - d. Determine how many students and sections of each grade there will be at the elementary level.
  - e. Determine what special education programs will be needed in K-12.
  - f. Coordinate staff requirements with the Personnel Subcommittee.
  - g. Visit other schools in order to develop a standard of what should be expected.
  - h. Coordinate grade levels assigned to each building with the Facilities Subcommittee.

In general, develop the educational benefits that may accrue to the district as a result of the increased enrollment coming from merging.

#### Potential

Single section (300 enrollment)  
 Double section (600 enrollment)  
 Quadruple section (1200 enrollment)  
 Larger

#### Program differences

High school  
     Number of courses  
     Number of sections  
     Variety of courses compared to minimum standards  
     Student services  
     Co-curricular and athletic programs  
 Middle school/junior high school  
     Separate unit  
     Variety of courses compared to minimum standards  
     Student services  
     Co-curricular  
 Elementary school  
     Number of teachers

Student Outcomes

Standardized tests

ITBS

ITED

ACT

SAT

Other

Dropout rate

Graduate follow-up

Number starting post secondary education

Number completing post secondary education

Success as school citizen

Success as adult citizen

3. Enrollment and population. The key to the reorganization study is school enrollment. Loss of enrollment is the major factor that gives rise to the need for reorganization.
  - a. Obtain current school enrollments by grade. Locate similar information for the past several (possibly ten) years.
  - b. Obtain a preschool census from the school, or assign committee members to take such a census.
  - c. Project the future enrollment.
  - d. Obtain a map(s) of the school district and locate students on the map.
  - e. Study the private school enrollments, if any.
  - f. Study total population data for the school district.
  - g. Study the economic conditions and economic base of the community (school district) as a factor in future enrollments. Also consider the base of the surrounding area and county.
  - h. If the study is being conducted jointly with neighboring districts, combine the data into the various possible reorganization plans.
  - i. Study the type of community.
  - j. Study student enrollment trends.
  - k. Study population trends.
4. Finance and Property Valuations. The legal financial structure of Iowa's schools is complicated, and the subcommittee will need assistance from the school business administration.
  - a. Obtain copies of the school districts' "Certified Annual Report," and the "Adopted Budget and Certificate of School Taxes."
  - b. For the basis of the financial study, prepare a series of reports combining the schools.
  - c. Explain what financial effects reorganizing might have on the education program.
  - d. Explain what financial effects reorganizing might have on the taxpayer.
  - e. Explain what financial options are available.
  - f. Explain what financial resources are available.
  - g. Study Fund Balances and trends.
  - h. Study Unexpended Budget Authority Balance and trend.
  - i. Study Efficient/economical operation.
  - j. Explain assessed valuation and taxable value per pupil.
  - k. Compare tax rates of the current district, surrounding districts, and estimated tax rates of possible reorganization options.
5. Facilities and Equipment



- a. Locate the facilities on a map.
  - b. Take tours of the facilities.
  - c. Tour buildings in other school districts as a basis for comparison.
  - d. Obtain or draw floor plans of the facilities.
  - e. Determine the capabilities of each room and each building.
  - f. With the Instructional Subcommittee, relate educational program to buildings. Correlate the grade structure to the buildings. For example, assign grades K-5 to building A, grades 6-8 to building B, and grades 9-12 to building C.
  - g. Develop a plan for, and estimate the cost of building alterations that may be needed. Follow the same procedure for equipment.
  - h. Are the existing buildings able to accommodate all planned educational programs? If not, are additional facilities needed?
  - i. Recommend a long-range school building program, with priorities listed.
  - j. Evaluate the buildings for Code compliance and accessibility.
  - k. Consider the possible uses of the facilities or alternative uses.
6. Transportation and Road Conditions
  - a. Make a map showing types of roads available, locate pupils on maps, and show bus routes needed. Determine the number and configuration of routes.
  - b. Coordinate the bus routes with the possible educational plans developed by the Facilities Subcommittee. It might be necessary to draw more than one map if the program calls for alternate uses of the buildings.
  - c. Determine the bus needs and costs.
  - d. Estimate time on bus for each student.
  - e. Estimate total cost of transportation.
  - f. Estimate distances for students to travel.
  - g. Evaluate safety.
  - h. Evaluate convenience.
7. Personnel.
  - a. Analyze the salary schedules and the location of personnel on the schedules.
  - b. Analyze the tenure of the staff.
  - c. Analyze the master contracts, if one exists.
  - d. Be prepared to determine staff needs in the reorganized district.
8. Geographical Considerations and Natural Community Centers. Geographic compatibility is a paramount feature of any school district merger.
  - a. Review the school district maps.
  - b. Review road maps.
  - c. Analyze the outline configuration, the number of square miles, and the distances between municipalities and from one side of the district to the other side.
  - d. Determine whether other contiguous districts form a more common sense or compact shaped geographical pattern.
  - e. Determine how much territory is likely to be excluded for attachment to neighboring districts.
  - f. Evaluate road conditions.
  - g. Map the location of facilities.
9. Economic Factors. Natural business centers have an impact on school district formation.
  - a. Are any of the municipalities in the districts full-service business centers?
  - b. Where are the major business centers for the communities?
  - c. Is a contiguous school district with a natural business center a logical choice for reorganization?

10. Long Term Stability.
  - a. What is the likelihood that reorganization, dissolution or whole-grade-sharing will be necessary again within the next decade with the proposed reorganization?
  - b. What are the barriers?
  - c. What are the dominant communities and where are they located?
  - d. Are there natural rural coalitions?
  - e. What are the dominant economic areas and where are they located?
  - f. What is the impact on surrounding schools/districts of any reorganization; will the proposed reorganization limit the future reorganization options of the surrounding districts if they are not involved in the proposed action?
11. Other Viable Sharing Options as an Alternative to Reorganization.
  - a. What other options could the district consider?
  - b. Would those options be viable long-term?

### **Preparing the Advisory Report Recommendations**

The Committee will need to work on three important aspects of the study at this point: (a.) assure the timeliness of the written report from each subcommittee; (b.) assure consistency in report style, format, and direction; and (c.) help the subcommittees prepare reports that will lead to meaningful conclusions.

1. Each subcommittee should put into written form the chapter or chapters assigned to it.
2. Specific recommendations should be a part of each chapter, when appropriate.
3. The Committee, with the assistance of all committee members, will need to answer the questions posed by the board of directors. Subcommittees may feel the need to expand their outlook. On the other hand, a report that flies off in other directions may serve very little purpose as a merger study. For example, a report that zeros in on the topic of what a committee member or two perceive as a negative school program or employee, may negate the usefulness as a feasibility study.
4. Along with response to the basic questions, the Overview Chapter should summarize each of the other chapters.
5. Have the report typed and have copies printed.
6. It might be helpful to print a short two or three page executive summary for more widespread distribution. The Overview Chapter could serve this purpose.
7. The report does not need to be printed on glossy paper, or appear as a slick publication. However, a properly written, neatly typed, and attractively duplicated report will help the readers use the material in developing their positions.

### **Presenting the Advisory Report Recommendations**

1. Since the school board formed the committee, the school board should receive copies of the report before it is distributed elsewhere.
2. A good approach is to provide board members written copies a week or two before the meeting at which they discuss the report.
3. The Department's suggestion is to have the Overview Committee present oral reports to the school board. This might be at a regular or special meeting, but it is well advised that the topic is thoroughly announced in advance.
4. At this time, copies of the report and/or summary report can be distributed to the public.
5. The Overview Committee will need to be prepared to answer questions coming from the board members and from the public.

### **Follow-up of Study**

If the school boards of the districts involved agree that a reorganization or dissolution should take place, the committees might be needed to help provide information to citizens, to interest groups, and to civic organizations. The degree of involvement would depend upon how strong an endorsement is being made by the board or boards.

This is a fairly comprehensive outline of citizens' study committees and the product they produce. Districts may only need to use portions of the publication, or they may expand upon some topics. However, much of the material contained herein relates to the practices that have been developed and used by school districts across the state.

## **CHAPTER 4**

### **BOUNDARY CHANGES**

Boundaries may be changed without a reorganization or dissolution vote, in the following situations:

- When due to natural obstacles within the district, in the opinion of the AEA administrator, inhabitants of the school district cannot reasonably attend school in their own district. The AEA administrator shall attach the part affected by the natural obstacle to an adjoining school district with the consent of the board of the adjoining school district. (274.13)
- Territory attached to an adjoining school district due to a natural obstacle may be reattached to the original district from which that territory was severed if the natural obstacles have been removed. This restoration of territory requires the concurrence of the respective boards and the AEA administrator as well as the written application of 2/3 of the electors residing upon the territory to be reattached. (274.14)
- Boundary lines of contiguous school districts may be changed by the concurrent action of the respective boards at their regular July meetings or at a special meeting called for that purpose. The concurrent action is subject to the approval of the AEA board, unless the AEA does not take action within 30 days following receipt of notice, in which case the concurrent action of the boards is considered approved. (274.37)

#### **Studies on Boundary Changes**

Iowa Code Section 274.38 provides that a school board may request a study and recommendations of the Department of Education relative to the adjustment of boundary lines. The recommendations shall be submitted to those districts involved within sixty (60) days after the request for the study and recommendations were made. The recommendations are advisory only and are not binding on the local districts.

### **CONCURRENT ACTION METHOD OF BOUNDARY CHANGE**

#### **Actions of Local Boards**

This is a relatively simple and straightforward method of school boundary change.

1. Concurrent action may be used to transfer specific parcels of land from one district to another district providing the land is contiguous to the receiving district. Exchange of territory is most common.
2. Iowa Code section 275.22 states that if territory has been excluded from a newly reorganized district, action pursuant to section 274.37 shall be taken prior to the effective date of reorganization. This means that after the petition method of reorganization has been successful in reorganizing two or more districts, and if specific territory has been objected out of the new district, concurrent action must be taken. Land left out of the newly reorganized district does not belong to another school district. The AEA has no statutory authority to assign land to another district. For example, if districts A and B successfully reorganize by the petition method into becoming district A-B, and if two sections of land in B are to be left out of A-B because of citizens' objections presented to the AEA at the hearing, it will become necessary for the board of district B to take action. If the plan is to transfer the two sections to district C, the boards of B and C must act according to Section 274.37. The concurrent action needs to be taken prior to July 1 when district B ceases to exist.

#### **AEA Role**

Concurrent action is subject to the approval of the AEA board. However, if the AEA board does not disapprove the concurrent action within thirty days following receipt of notice, the concurrent actions of the local board shall stand. (274.37)

### **Notice of Boundary Change**

After concurrent action on any boundary change, the board secretary shall file a written description of the new boundaries with the county auditor in each county in which any portion of the school district lies. (274.4, 275.22)

### **Challenges to Boundary Change**

No action shall be brought questioning the legality of the change in the boundaries of any school district unless brought within six months after the date of the filing of the written description in the office of the county auditor. When the period of limitations (6 months) has passed, it shall be conclusively presumed that all acts and proceedings taken regarding the change in boundaries were legally taken for every purpose whatsoever. (274.5)

### **Continuation of Levies**

The debt service levy to retire bonded indebtedness shall continue to be made against property that is severed from the district until funds are realized to pay the bonds in full. (76.2)

Advice from the assistant attorney general in 2001 concluded that boundary changes have the following impact on outstanding levies: (1) existing bond repayment levies continue against property which was within each school district at the time of the bond issuance; (2) Instructional Support Levy, Voter-Approved PPEL, and PERL levies remain in force as approved and are levied against all property within each levying district, including land which is added to the district through a boundary change which occurs following approval of the levy; and (3) the existence of loan agreements executed in anticipation of VPPEL or schoolhouse levy revenue does not authorize a district to continue to collect the levy against property which has been severed from the district. And, this is so, even if a decrease in the valuation of property remaining in the district requires the levy amount to exceed the normal statutory limit for the levy. (Memorandum, Scase to Amosson, August 6, 2001)

## **CHAPTER 5 REORGANIZATION**

### **Petition Method**

The petition method of reorganization, as described in Chapter 275 of the Code of Iowa, is the major method for merging two or more school districts into one school district. The overall features of this chapter of the Code are:

1. The petition method begins with the citizens of the school districts. Even though school boards may be heavily involved, the petitions are "citizens' petitions" and may be filed with or without school board approval. However, a successful reorganization is more likely assured if the boards of the affected districts are involved and supportive.
2. Citizens have another opportunity for formal input through the ability to file objections with the AEA. It is important to note that filing objections does not assure the actions requested by the objectors.
3. Another citizen function is the opportunity to testify at the reorganization hearing conducted by the AEA.
4. The AEAs are significantly involved in that they may approve the petitions or dismiss them. The AEAs may also draw boundaries that set territory out of the proposed district and in other ways modify the petition.
5. A petition culminates in a special election called by the AEA board or in an AEA board dismissal of the petition.

*Eligible elector* is a person who possesses all of the qualifications necessary to entitle that person to be registered to vote, whether or not the person is in fact registered to vote. (39.3(6)) *Registered voter* is an eligible elector who is registered to vote. (39.3(11))

If a dissolution proposal adopted by the board contains provisions that 95 percent or more of the taxable valuation of the dissolving district would be attached to a single district, the dissolving district shall cease further proceedings to dissolve and shall comply with reorganization procedures. (275.54(5))

### **Reorganization Sequence**

The reorganization sequence begins with Section 275.12. Generally, the steps proceed through Section 275.22; however, several other sections of the chapter are referenced, along with a few sections outside of Chapter 275. Although, the process may seem complex, the history of a large numbers of school district reorganizations has resulted in an ample set of guidelines.

This publication is not intended to take the place of counsel with an attorney or direct reference to the Code of Iowa. The major purpose is to point toward the relative sections of the Code and to make reference to some of the most common practices that have been developed by school districts and attorneys as they have engaged in the reorganization process. This publication is a summary explanation of the petition method of reorganization.

1. A petition describing the boundaries of the proposed new school district must be signed by eligible electors residing in each existing school district or portion affected equal to at least 20 percent of the registered voters or four hundred eligible electors -- whichever is the smaller number. (275.12(1)) The petition shall state the name of the proposed school district and the number of directors, 5 or 7, and the method of election of directors. (275.12(2))
2. The petition may include a provision that the voter-approved physical plant and equipment levy (VPPEL) be voted upon at the election on the proposed reorganization. 275.12(5))

3. The plan must conform to the AEA reorganization plan or the petition shall request change of the AEA plan. (275.12, subsection 1). It shall be a mandatory duty of the AEA to dismiss the petition if the requirements of sections 275.1 to 275.5 are not fully complied with. (275.9)
4. The petition shall be accompanied by an affidavit, signed by a registered voter residing in the territory, showing the number of registered voters residing in the territory described in the petition, and other specified information. (275.13). The affidavit is considered to be true unless objections to it are filed on or before the time fixed for filing objections. (275.13)
5. The petition shall be filed with the AEA administrator of the AEA in which the greatest number of registered voters reside. (275.12, subsection 1).
6. The AEA shall not accept a petition if any of the affected school districts have approved the issuance of general obligation bonds at an election during the preceding 6-month period. (275.12(1))
7. The AEA board shall review its own reorganization plans and determine whether the petition complies with its adopted plans. If its findings are that the petition does not comply, it is required to conduct further surveys pursuant to Section 275.4 prior to setting the date for the hearing upon the petition. (275.5).
8. The AEA board shall review the method of election in the petition and may change or amend the plan in any manner as required by law, justice, equity or the interest of the people. (275.12(4))
9. The AEA cannot approve a reorganization that will have a combined student enrollment of fewer than 300 students. (275.3).
10. Within 10 days after the petition is filed, the AEA is required to set a final date for filing objections to the petition and set a date for a hearing. The final date for filing objections shall be no more than 60 days after the petition is filed. The AEA administrator shall give notice of the hearing date, time, and place at least 10 days prior to the final day for filing objections. (275.14) The hearing shall be held within 10 days of the final date for filing objections. (275.15(1)).
11. Prior to the final date set by the AEA for filing objections, any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for, may file written objections with the AEA administrator in the form of an affidavit. The forms shall be prescribed by the Department of Education and may be obtained from the AEA administrator and are also included in this manual. The objections are of two types--those that call for a dismissal of the petition and those that request exclusion of territory. If the objection is calling for exclusion of territory, the objection shall include the correct legal description of the property to be removed. Refer to the forms for specific directions. (274.14). It is important to note that the filing of an objection does not assure the requested action.
12. At the hearing, interested parties, both petitioners and objectors, may present evidence. The objectors are generally of two types--those who want to be included in a contiguous school district instead of the reorganized school district and those who object to the reorganization election. (275.15).
13. At the hearing, the AEA must present the results of any further surveys it conducted as a result of the petition. (275.5)
14. Within 10 days after the conclusion of the hearing, the AEA board shall rule on objections and set boundaries or dismiss the petition. The board's action shall in its judgment be for the best interest of all parties concerned, having due regard for the welfare of the adjoining districts. (275.15(1)) Specifically, the AEA board may:
  - a. Accept the petition and call for an election;
  - b. Modify the boundaries or other aspects of the petition and call for an election; or
  - c. Dismiss the petition.
  - d. If the AEA board does not dismiss the petition and needs additional information in order to fix boundary lines, it may continue the hearing for no more than 30 days. The date of the continued hearing shall be announced at the original hearing. During this time, meetings may be conducted and further evidence may be collected. The AEA may conduct meetings with boards of affected districts, and if so, must publish notice at least 48 hours in advance. The AEA board's decision must be made within 10 days after the continued hearing. (257.15(3))
15. The AEA shall publish at once its decision in the same newspaper in which the original notice was published. (257.13(3))

16. AEA boards have broad authority in the establishment of boundary lines. The Code does not give explicit directions, but it does set out basic guidelines. Code requires the AEA to consider all available evidence including, but not limited to, information presented by the petitioners, all objections requesting territory exclusion, reorganization studies and plans, geographical patterns evidenced by students using open enrollment to attend school in another district, potential travel distances required of students, and geographic configuration of the proposed district. The exclusion of territory shall balance the rights of the objectors with the welfare of the reorganized district. (275.15(2)). The AEA may also exclude territory that was not objected. The AEAs are not only setting out land, they are drawing boundary lines, and as such they are merely moving an existing line, albeit one that is often far from being straight. The evidence before the AEA boards, usually in the form of maps that display the objected territory, frequently presents a "checkerboard" pattern. When confronted with these circumstances, AEA boards have drawn lines that remove both objected territory and land that was not objected.
17. Within 20 days after the publication of the AEA decision, any affected school district may appeal the AEA decision to the district court. A school district affected is one that was named in the petition. The appeals have been limited to the school districts themselves and have not been applied to individual citizens. If the AEA decision was a joint AEA board decision, the decision is subject to appeal to the district court and is not to the appeal procedures in chapter 290. (275.15(4))
18. If the AEA board does not approve the petition, a petition with identical or similar boundaries shall not be filed for a period of 6 months following the date of the hearing or the vote of the AEA board, whichever is later. (275.17)
19. The AEA administrator gives written notice of a proposed date for an election to the appropriate county commissioner of elections in the county with the greatest taxable base. The date shall be as soon as possible but must be no later than November 30 of the calendar year prior to the calendar year in which the reorganization will take place on July 1. The AEA administrator shall furnish to the commissioner a map of the proposed reorganized area which must be approved by the commissioner as suitable for posting. The map shall be displayed prominently in at least one place within the voting precinct, and inside each voting booth. The County Commissioner of Elections conducts the election. (275.18 and 275.22)
20. Voters shall vote separately in each existing school district affected. Voters residing in the entire existing district are eligible to vote on the reorganization proposition and on the proposition to levy for the voter-approved physical plant and equipment levy. (275.20)
21. To pass, the proposition for reorganization must receive a majority number of votes cast in all districts as well as a majority of the votes cast in each of at least 75 percent of the districts. (275.20)
22. To become effective the following July 1, the election must be held by November 30 of the prior calendar year. (275.18)
23. If the reorganization is between districts in two AEAs, Sections 275.8 and 275.16 need to be reviewed. The newly reorganized district becomes a part of the AEA of the original district with the greatest number of registered voters residing on the date of the election. (275.27) This type of petition is filed with the AEA in which the greatest number of registered voters reside. (275.12)
24. If the proposed school district is to have director districts, they are to be formed according to the most recent federal decennial census data. (275.12, subsection 3)
25. If the proposal does not pass, a new petition describing the identical or similar boundaries shall not be filed for at least 6 months from the date of the election. (275.22)
26. If territory is excluded from the reorganized district, concurrent action by the contiguous school district boards must be taken after the election passes and prior to the effective date of the reorganization. (275.22, 274.37)
27. If the proposal passes and the proposal included the division of the school district into director districts, the boundaries shall be drawn after the election passes. The board of the newly reorganized school district shall draw the boundaries of the director districts, adopt the plan, and submit the plan to the state commissioner of elections for approval. (275.12(3))
28. If the school district reorganization passes, the newly reorganized school district shall not file a petition to change boundaries for a period of 5 years following the effective date of the reorganization unless the action is approved by the Director of the Department of Education. (275.23)



### **Hearing when Territory is in Different AEAs**

If the territory described in the reorganization petition lies in more than one AEA, there are a few changes to the hearing procedures. The president of the board of the AEA in which the petition was filed, or a member of the board designated by the president, will preside at the joint hearing. The boards will act as a single board to determine whether the petition conforms to plans, or if the petition requests a change in AEA plans, whether a change should be made. The joint board has the authority to change the plans of any of the AEAs. If the joint board casts a tie vote on a decision to fix boundaries or dismiss the petition, the time during which action must be taken is extended from 10 days to 15 days after the conclusion of the hearing. The joint board shall reconvene not less than 10 nor more than 15 days to reconsider its action and if a tie vote is again cast, the decision grants the petition and changes the plans of any and all AEAs affected by the petition. The AEA administrator shall at once publish the decision. The AEA or school district aggrieved by the decision, may bring the controversy to the Department of Education within 20 days of the publication. The Department may affirm the action, vacate, dismiss all proceedings, or make such modifications of the action as in their judgment would best serve the interests of the agencies. Judicial review of the actions of the Department may be sought within 30 days. (275.16)

### **Notice of Boundary Change**

After an election to reorganize, to dissolve or concurrent action on any boundary change, the board secretary shall file a written description of the new boundaries with the county auditor in each county in which any portion of the school district lies. (274.4, 275.22)

### **Challenges to Boundary Change**

No action shall be brought questioning the legality of the organization, reorganization, enlargement or change in the boundaries of any school district unless brought within six months after the date of the filing of the written description in the office of the county auditor. When the period of limitations (6 months) has passed, it shall be conclusively presumed that all acts and proceedings taken regarding the organization, reorganization, enlargement or change in boundaries were legally taken for every purpose whatsoever and that a de jure (legally established) school district exists. (274.5)

### **Reorganization Petition Contents**

Chapter 275, particularly Section 275.12, lists several components that must be included in a reorganization petition. These items, along with a few optional elements are listed below. Those marked with the larger bullets are mandatory. The others are not always included in the petitions or are optional.

- Legal description of the proposed boundary lines.
- Conformance to area education agency reorganization plans.
- Name of proposed district.
- Number of directors (5 or 7).
- Method of election of the directors.
- ★ No passage of bond election within past six months.
- ★ Voter approved physical plant and equipment levy.
- ★ Plan for division of assets and liabilities.
- ★ Alternate method of election of initial board.

Districts are strongly encouraged to engage the services of an attorney when they seriously consider the development of a reorganization petition. Seldom do private citizens write and circulate their own reorganization petitions; but if they do, the same advice applies.

## **Major Decisions in the Petition**

**General** Some of the ingredients included in the petition are fairly routine, or major decision making elements are not usually encountered. For example, the legal descriptions of the two old districts and the proposed district often require intense legal work, but the boards and citizens drawing the petitions usually leave such matters to the hired attorneys. The only decision that may arise is to exclude territory. Although this has been done, it is not the common practice. The references to the AEA plans and the fact that a bond referendum has not carried within the past six months are also routine items that are handled by the attorneys.

**Name** Selecting a name for the new district sometimes proves to be difficult. However, this is not a matter that is subject to appeal to the Department of Education.

**Board Members and Election Method** The most common areas of decision making involve the selection of the number of board members, the choice of method of election, and the possibility of using the alternative method for selecting the initial board. This section elaborates upon some of the decision elements.

A petition for reorganization must specify the number of members to be on the board of the new district and must state the method of election. The number of members may be either five or seven. The method of election shall be one of the following plans, which are noted in the Section 275.12, Subsection 2, according to the lower-case letters. (275.12):

- a. Election at-large from the entire district by the electors of the entire district.
- b. Division of the entire district into director districts based upon population, with the entire school district voting on all candidates. Changes in boundaries of director districts shall not be made during the 60 days prior to the date of the annual school election.
- c. Election of not more than one-half of the members at-large from the entire district and the remainder divided into director districts, with voters voting on all five or all seven. Changes in boundaries of director districts shall not be made during the 60 days prior to the date of the annual school election.
- d. Division of the entire school district into director districts, with the voters voting for the candidate of their own director district only. Changes in boundaries of director districts shall not be made during the 60 days prior to the date of the annual school election.
- e. Division of the entire school district into four director districts, with the voters voting only upon directors in their own director district; and election by all voters in the district of three directors at-large. Changes in boundaries of director districts shall not be made during the 60 days prior to the date of the annual school election.

Methods b, c and d allow for multi-director districts. For example, a given town could have two directors, with no boundary distinction within the town. The rest of the directors could come from three other single director districts.

After the passage of the reorganization election, the area education agency administrator will call for a special election for the initial board of the new district. Such election will be scheduled as soon as possible, but no later than the third Tuesday in January of the calendar year in which the reorganization takes effect. (275.25).

The election will put into place the initial board according to the method of election stated in the petition, and for the number of directors specified. The directors who are qualified to serve and are elected shall serve until their successors are elected and qualify. The board shall organize within 15 days after the special election and shall have control of the employment of personnel for the newly formed district for the next following school year. The board shall appoint an acting board secretary and an acting superintendent. The appointment of the acting superintendent is not subject to the continuing contract provisions in Code. Following the organizational meeting of this board, the board may establish policy, organize curriculum,

enter into contracts, complete planning, and take action as necessary for the efficient management of the newly formed district. (275.25, Subsections 5, 6, & 8.).

During the period of time from the organization of the initial board and the effective date of the reorganization, the two original boards will continue to meet and govern their districts, and the initial board will assume activities for starting the new district. With a few exceptions this has not posed problems for boards and school districts.

The third common decision making area involves the possibility of an initial board that is selected from among the existing members of the current boards. As an alternative to conducting a special election for the initial board of directors, the petition may state that the "alternative method" is to be used. The board of the newly formed district shall organize within 45 days of the affirmative vote on the reorganization proposition. The overall difference between the two choices is that the alternative method provides that the original boards may select the initial board from among themselves; whereas, the regular method involves a special election. (275.41).

If the petition specifies the alternative method it must still specify the number of directors and the method of election, since the initial board selected according to the alternative method is replaced over a period of approximately four years. At that time the new district will be on a standard three-year board election cycle.

The petition must specify either five or seven members to be on the initial board, or it shall indicate seven or nine members if three or more districts are involved. It must also specify how many are to be retained from each district, and such designation shall be proportionate to the populations of the districts. However, all districts shall retain at least one member.

Voter-Approved Physical Plant and Equipment Levy. Section 275.20 provides that the reorganization petition may include a provision to have the voter-approved physical plant and equipment levy placed on the reorganization ballot. Reference to the same provision is included in the school finance chapter--Chapter 257.

Division of Assets and Liabilities. Provisions for the division of assets and liabilities is sometimes included in the petition. If no provision is made in the petition, or if territory is excluded from the reorganized district by petition or the AEA, the division shall be made after reorganization pursuant to 275.29 through 275.31. (275.28)

### **Division of Assets and Liabilities**

Division and distribution of assets and liabilities usually applies to three types of actions.

The most common involves payment of outstanding bonds. The options are to have all portions of the new district participate in the payment of all existing bonds, to have each district pay its own debt, or arrange for some type of compromise agreement. If districts have bonds outstanding, particularly if only one of the reorganizing districts does, it is common for this stipulation to be negotiated by the boards of directors and be included in the petition.

Payment of other debt is another division of assets and liabilities issue. This is seldom addressed in the petition, but there could be a condition where one of the partner schools is operating with negative financial balances, and the plan is to have that portion of the new district tax itself with an equalization levy. If necessary to equalize the division of liabilities and distribution of assets, the boards may provide for the levy of additional taxes, which shall be sufficient to satisfy the mandatory levy requirements in section 76.2 (debt service on bonded indebtedness) or other liabilities of the district, upon the property of a corporation or part of a corporation and for the distribution of the tax revenues so as to effect equalization. (275.31) If one or more of the contiguous school districts receiving assets and liabilities of the deaccredited school district utilizes the equalization levy, only that territory in the school district imposing the equalization levy that comprises territory of the deaccredited school district shall be taxed (256.11(12)"a"(1)).

The third component of the division of assets and liabilities is how to make the division if territory is excluded for later inclusion in contiguous districts. Since such exclusion is almost always made by the AEA after the submission of the petition, this is not included in the petition. (275.28)

If provisions for the division of assets and liabilities are not included in the petition, the division is made prior to April 15 of the school year prior to the effective date of the reorganization for the bonded indebtedness. The division of other assets and liabilities is made between July 1 and July 20 of the first year of the reorganization. This is done in a meeting of the newly reorganized district's board and the boards of all school districts affected by the organization. This includes districts receiving territory for the division of assets and liabilities. The reorganized district board does not need to meet with districts receiving territory for the division of bonded indebtedness if the division was addressed in the petition. If the boards cannot agree on the division and distribution, the matters on which they differ shall be decided by arbitrators. The written decision of the arbitrators may be appealed by an affected school district to district court within 20 days of the decision being filed (275.29, 275.30, & 275.31).

If the district receives a school building in the division of assets that it does not intend to use, Section 257.31(7)(b) allows the district to request from the School Budget Review Committee authority to spend a reasonable and specified amount from its unexpended fund balance (secretary's balance) for the costs associated with the demolition of an unused school building, or the conversion for community use, in a school district involved in a dissolution or reorganization if the cost are incurred within three years of the dissolution or reorganization.

### **Finance**

For a more detailed discussion of Finance related to reorganization, refer to Chapter 9 of this publication.

## **Reorganization Objection Process**

The purpose of this chapter is to familiarize the boards and citizens of districts involved in a reorganization about the objection process. It is important to note that citizens filing objections to a reorganization petition are encouraged to engage counsel of an attorney and use this material for general information purposes only. Sections 275.14, 275.15, and 275.16 of the Code of Iowa prescribe the process of filing objections and the process followed for acting upon the objections.

### **Summary of Petition Method**

In order to understand the objection process better, it is helpful to be able to fit the objection process into the petition method of reorganization procedures.

1. The petition, signed by twenty percent of the registered voters, or four hundred eligible electors, (whichever is the smaller number) is presented to the area education agency (AEA) administrator. See the Code of Iowa if more than one AEA is involved.
2. The AEA administrator sets a final date for filing objections, and that date may be no more than sixty (60) days after the petition is filed.
3. The administrator sets a date for a hearing, and that date may be no more than ten (10) days after the final date for filing objections.
4. At the hearing, interested parties, both petitioners and objectors, may present evidence and arguments to the AEA board.
5. Within ten (10) days of the hearing, the AEA board shall rule and it may do one of three things:
  - a. Dismiss the petition
  - b. Bring the petition as presented to an election

- c. Modify the petition, which usually involves redrawing the boundary lines, and then bring the modified petition to an election.
6. The board may continue the hearing for up to thirty (30) days. Additional objections in the form required in Section 275.14 of the Code may be filed within five (5) days of the original hearing.
7. If the AEA board approves the petition for an election or modifies the petition and approves it for an election, the special reorganization election must receive a majority 'yes' vote in each of at least 75% of the districts, and also a majority of the total number of votes cast in all districts, in order to pass.
8. If the election is held prior to November 30, the reorganization is effective the following July 1.

### **Filing the Objection**

Following are guidelines for filing objections. Objectors are advised to use the services of an attorney for filing an objection.

1. After the AEA administrator publishes the notice stating the final date for filing objections, the objections shall be filed in the office of the AEA administrator by the time and date noted.
2. The objections shall be in writing in the form of an affidavit. The forms shall be those provided by the AEA administrator that are prescribed by the Department of Education.
3. Objections may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change included in the petition.
4. Objections are generally of two types. First, there are those objections that express disapproval of the reorganization petition or any reorganization petition. These people are asking for the AEA to rule a dismissal of the petition. The second type of objection is a request for territory to be set out for inclusion in another school district. Some of these people may favor reorganization but want to be in a different district. Others may not favor reorganization but are requesting to be put in another district if there is a reorganization. The AEA has a different objection form for each of the two types of objections. Parties may complete either or both forms.
5. Objections that request that property be excluded from the proposed district shall include the correct legal description of the property to be removed.
6. The objection forms include detailed instructions. (275.14)

### **AEA Action on Objections**

The filing of an objection and the presentation of evidence at a hearing do not assure an individual that action will be taken satisfactory to the objector's preference.

1. The hearing will be conducted in a manner prescribed by the AEA board. Normally an agenda is prepared and followed. The agenda usually allows for testimony from the local school boards, attorneys representing boards and groups, petitioners, and objectors. Time restraints will need to be set if a large number of people indicate they want to speak.
2. Usually the board has access to a map that displays the school district boundaries and the objected territory.
3. The AEA shall review the matter on its merits.
4. Within 10 days of the conclusion of the hearing, the AEA board shall rule on the objections and enter an order fixing the boundaries for the proposed school corporation as will in its judgment be for the best interests of all parties concerned, having due regard for the welfare of adjoining districts, or dismiss the petition. The AEA board shall consider all available evidence including, but not limited to, information presented by the petitioners, all objections requesting territory exclusion, reorganization studies and plans, geographical patterns evidenced by students using open enrollment to attend school in another district pursuant to section 282.18, potential travel distances required of students, and geographic configuration of the proposed district. The exclusion of territory shall represent a balance between the rights of the objectors and the welfare of the reorganized district. (275.15)

## **REORGANIZATION OBJECTION FORMS**

### **INSTRUCTIONS TO AEA:**

Section 275.14 of the Code of Iowa requires that objections to a reorganization be filed on forms obtained from the area education agency (AEA), and that the forms be prescribed by the Department of Education. The following forms and instructions are those prescribed by the Department.

If a reorganization petition is presented to the AEA administrator, the DE suggests that the AEA set a procedure for distributing and collecting the objection forms:

- A. Assign staff members the responsibility for distributing and collecting the forms. These people should be able to explain the forms and answer questions. If unanswered questions remain, encourage the citizen to consult an attorney.
- B. Mark the form, date the form, or complete the first line of the form. This will help control the potential problem of people using out-of-date forms in the future. The AEA may choose to color code the forms.
- C. Make preparations for mailing the blank forms and for distributing them personally.
- D. People may make photo copies of the forms, but they should not be retyped or altered.
- E. Upon collection of the completed forms, sort them according to Form #1 and Form #2. Prepare a color coded map from #2, and develop tables and charts from both #1 and #2 in order to present evidence at the hearing.
- F. The filed objections, particularly those requesting boundary line changes, are essential to the board's action, and copies of objections should be provided for each board member.

AEA board members are expected to have access to these instructions and to any other appropriate DE publication.

Included with these instructions for the AEA are general instructions for citizens, instruction pages for Form #1 and Form #2, and the two forms themselves.

## **INSTRUCTIONS FOR CITIZENS AFFIDAVIT OF OBJECTION TO A REORGANIZATION PETITION**

### **GENERAL DIRECTIONS:**

The reorganization forms #1 and #2 are to be used to file objections to a reorganization petition. The Code of Iowa requires that these forms, available through the area education agency (AEA), be used.

- A. Objections shall be filed in the office of the AEA administrator.
- B. Objections shall be filed not later than twelve o'clock noon of the final day fixed for filing objections. This date is published in a newspaper, published within the territory described in the petition, as required by the Code.
- C. Objections shall be in writing on the prescribed forms and shall be certified.
- D. Objections may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for. There are two types of objection forms, and individuals may complete and file both types if appropriate. Husband and wife may file on the same form.
  - 1) Form #1 is to be filed by individuals requesting that the petition be dismissed and that no election on the proposed petition be held. The form may be found on the Department of Education's website at: [http://www.iowa.gov/educate/index.php?option=com\\_content&task=view&id=1628&Itemid=2435](http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=1628&Itemid=2435)
  - 2) Form #2 is to be filed by individuals objecting to the boundary line description presented in the reorganization petition. In most cases the objector is requesting the AEA board to set specific territory out of a reorganization proposal for later inclusion in another school district. Individuals should file this form if they approve of the reorganization proposal, but want the property to be in another district if the reorganization election passes; or, individuals may file this form if they

disapprove of the reorganization proposal, but want the property to be in another district if the reorganization election passes. If the petition does not include all territory of an existing district, this form may be used for territory that was excluded from the petition. The form may be found on the Department of Education's website at:

[http://www.iowa.gov/educate/index.php?option=com\\_content&task=view&id=1628&Itemid=2435](http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=1628&Itemid=2435)

For further information refer to Chapter 275 of the Code of Iowa, specifically Sections 275.14 and 275.15.

## **REORGANIZATION OBJECTION PROCESS**

The purpose of this section is to familiarize the Area Education Agency and citizens of districts involved in a reorganization about the objection process.

### **Summary of Duties of the AEA for the Objection Process**

In order to better understand the objection process, it is helpful to be able to fit the objection process into the petition method of reorganization procedures.

1. The petition, signed by twenty percent of the registered voters, or four hundred electors, (whichever is the smaller number) is presented to the area education agency (AEA) administrator. (275.12)
2. Within 10 days after the petition is filed the AEA administrator sets a final date for filing objections, and that date may be no more than sixty days after the petition is filed. (275.14)
  - Objections shall be filed in the office of the AEA administrator.
  - Objections shall be filed not later than twelve o'clock noon of the final day fixed for filing objections. This date is published in a newspaper, published within the territory described in the petition, as required by the Code.
  - Objections shall be in writing on the prescribed forms.
  - Objections may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for.
  - There are two types of objection forms, and individuals may complete and file both types if appropriate.
    - i. Form #1 is to be filed by individuals requesting that the petition be dismissed and that no election on the proposed petition be held. The form is available on the Department of Education's website --- [http://www.iowa.gov/educate/index.php?option=com\\_docman&task=doc\\_download&gid=7879&Itemid=1673](http://www.iowa.gov/educate/index.php?option=com_docman&task=doc_download&gid=7879&Itemid=1673)
    - ii. Form #2 is to be filed by individuals objecting to the boundary line description presented in the reorganization petition. In most cases the objector is requesting the AEA board to set specific territory out of a reorganization proposal for later inclusion in another school district. Individuals should file this form if they approve of the reorganization proposal, but want the property to be in another district if the reorganization election passes; or, individuals may file this form if they disapprove of the reorganization proposal, but want the property to be in another district if the reorganization election passes. If the petition does not include all territory of an existing district, this form may be used for territory that was excluded from the petition. The form is available on the Department of Education's website --- [http://www.iowa.gov/educate/index.php?option=com\\_docman&task=doc\\_download&gid=7880&Itemid=1673](http://www.iowa.gov/educate/index.php?option=com_docman&task=doc_download&gid=7880&Itemid=1673)
3. The administrator sets a date for a hearing, and that date may be no more than ten days after the final date for filing objections. (275.15)
4. At the hearing, interested parties, both petitioners and objectors, may present evidence and arguments to the AEA board. (275.15)
5. Within ten days of the hearing, the AEA board shall:
  - a. Dismiss the petition
  - b. Bring the petition as presented to an election

- c. Modify the petition, which usually involves redrawing the boundary lines, and then bring the modified petition to an election. (275.15)
6. The board may continue the hearing for up to thirty days. Additional objections may be filed within five days of the original hearing. (275.15)
7. If the AEA board approves the petition for an election or modifies the petition and approves it for an election, the AEA administrator shall give written notice of the proposed date of the election to the county commissioner of elections of the proposed school corporation which has the greatest taxable base. (275.18) The special reorganization election must receive a majority 'yes' vote in each of at least 75 percent of the districts, and also a majority of the total number of votes cast in all of the districts, in order to pass. (275.20)
8. If a successful election is held prior to November 30, the reorganization is effective the following July 1. The boards of the affected districts shall notify the Department of Education on or before January 1 of the successful election.

## **INITIAL BOARD OF DIRECTORS**

A reorganization petition must specify the number of members to be on the board of directors (five or seven), and it must include the method of electing the board members. After the reorganization election passes, a special election is called for the election of the new board, unless the petition specified the alternate method.

This new board becomes the "initial board" and it functions until their successors are elected and qualify. The phasing out process will be completed after the third regular school election held after the effective date of the reorganization. From that point on, the members are elected on routine four year cycles. From the organization date of the new board until the effective date of the reorganization, the initial board shall exercise control over the formation of the new district, and the boards of the original districts shall continue their operations, with certain responsibilities being shifted to the initial board.

The petition may include an optional alternate method of selecting the initial board by the existing board members. They choose from among themselves on a basis that is proportionate to the populations of the districts.

No director may remain on the board after the effective date if the boundary change places the director's residence outside of the boundaries of the district. (275.41(6))

If the petition proposes the division of the school district into director districts, the boundaries of the director district shall not be drawn until after the affirmative election on the reorganization proposal. If the election is favorable, the directors of the new school district shall draw and adopt the boundaries of the director districts. Once adopted, the board shall submit the plan to the state commissioner of elections for approval. (275.12(3))

The chapter explains the provisions for determining the number of board members, the methods of election, the election of the new board, and the phasing-out procedures. It also summarizes the alternative method of selecting the initial board.

### **Number of Board Members**

A petition for reorganization must specify the number of members to be on the new board, which shall be five or seven. If the district includes all or part of a city of fifteen thousand or more population, it shall have seven board members.

There does not appear to be a pattern that favors either five or seven members. Sometimes concern is raised in small districts about the problems associated with getting enough people interested in serving on the boards. In these cases, five members may be preferable.

Also, the choice between five or seven members often hinges upon the way the number relates to the proportion of members between the two original districts. For example, the smaller district may prefer to have two of the seven



members, rather than one of five--if such designation is appropriate according to the one person one vote principle. (275.12, subsection 2, & 275.25, subsection 3)

### **Method of Election**

The petition must state the method of election. The method of election shall be one of the following plans, which are noted in the Section 275.12, Subsection 2, according to the lower-case letters:

- (a). Election at-large from the entire district by the electors of the entire district.
- (b). Division of the entire district into director districts based upon population, with the entire school district voting on all candidates.
- (c). Election of not more than one-half of the members at-large from the entire district and the remainder divided into director districts, with voters voting on all five or all seven.
- (d). Division of the entire school district into director districts, with the voters voting for the candidate of their own districts only.
- (e). Division of the entire school district into four director districts, with the voters voting only upon directors in their own districts; and election at-large for three directors.

Methods b, c and d allow for multi-director districts. For example, a given town could have two directors, with no boundary distinction within the town. The rest of the directors could come from three other single director districts.

### **SUMMARY METHODS OF ELECTION**

Method	5 Member Board		7 Member Board	
	Number Director Districts	Number At-Large	Number Director Districts	Number At-Large
a.	0	5	0	7
Elected by voters of entire district:				
b.	5	0	7	0
c.	4	1	6	1
	3	2	5	2
			4	3
District directors elected by voters of the director district:				
d.	5	0	7	0
e.	NA	NA	4	3

### **Election of the Initial Board of Directors**

1. After a successful reorganization election, the old boards continue to govern their respective districts until the combined district comes into existence on July 1 of the stated year. At that time, the original districts are disbanded, although the original boards may have some residual responsibilities such as division of assets and liabilities.

2. Under the regular method for election of directors, the AEA administrator calls for a special school board election after a successful reorganization election. The date is to be as soon as possible, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. Time is allowed for nomination papers. (275.25, subsection 1). The number of directors and method of election will be as stated in the reorganization petition.

### **Phasing-out the Initial Board**

The successful candidates will serve varying length first terms, based upon the number of votes received. This is the "phasing-out" period. After the third regular school election occurring after the effective date of the reorganization, the members of the board of directors are elected on staggering four-year cycles. The following table lists the lengths of the terms. They are decided by setting terms according to the most votes received down to the least votes received. (275.25, subsection 5, as amended by 2008 Iowa Acts, HF 2620).

**Summary  
Lengths of Terms**

Number Votes	Serve Until Election After Effective Date of Reorganization	
	5 Member Board	7 Member Board
Most votes	3rd	3rd
Next	3rd	3rd
Next	3rd	3rd
Next	2nd	3rd
Next	2nd	2nd
Next		2nd
Next		2nd

The phasing-out takes place during the second and third elections occurring after the effective date of the reorganization. No regular school board elections are held at the first election date after the effective date of the reorganization.

The new board will be organized within fifteen days of the election. From that date until the effective date of the reorganization, the board serves on an interim basis with duties specified in the Code (275.25, subsection 6).

### **Alternative Method of Selecting the Initial Board**

If specified in the petition, the existing members of the two original boards will select the initial board. The alternative method institutes different ways to select board members, to establish the board, and to phase-out the board.

People deciding whether to use the regular method or the alternative method should not consider the intricacies of either method as pivotal points. The major difference is that under the regular method the citizens hold a special election to vote upon an entirely new board, and under the alternative method, the old boards appoint from among themselves.

1. If the alternative method is used, the reorganization petition must specify the number of members to be retained from each district, and the numbers among the districts shall be proportionate to the populations. All districts shall retain at least one member. If there are two districts reorganizing, there shall be either five or seven members. If there are three or more districts, there shall be seven or nine members retained. (275.41, subsection 1).
2. Prior to the organization meeting of the initial board, the boards of the original districts shall select the members to be retained. If that number is even, the initial board shall function until one additional director is appointed. The even number of members of the initial board may within five days of the organizational meeting appoint the additional member. However, such appointment shall be unanimous with all members voting. If the initial board cannot or does not appoint the additional member, that member shall be elected at a special election. If an insufficient number of board members are willing or able to serve, the original boards may appoint members to serve. (275.41, subsection 2).
3. Prior to the effective date of the reorganization, the initial board shall approve a plan that replaces the initial board by the third regular school election following the effective date of the reorganization and commences at the first regular school election held after the effective date of the reorganization. The plan shall provide that as nearly as possible one-half of the members are elected biennially. If the alternative method provided for a different number of members than the petition specified for the regular board, the plan shall accommodate such change. (275.41, subsection 3.)

The phase-out plan is left to the local control of the initial board. The only requirement is that if an election was held for the one additional member to create an odd number of board members, that person shall serve until the third election. As was true with the regular method, there are no school board elections the first year after the effective date.

The new board will be organized within 45 days of the election. From that date until the effective date of the reorganization, the board serves on an interim basis with duties specified in the Code (275.41, subsection 4).

## **POST-REORGANIZATION ELECTION ACTIVITIES**

After a reorganization election, one item of business remains if the election failed, and many activities are necessary if the election carried. The purpose of this chapter is to provide some guidance and serve as a checklist for post-reorganization activities--particularly if the election is affirmative.

### **Hearing and Election Expenses**

The expenses incurred by the school districts for either a passed or a failed effort to reorganize are liabilities of the individual districts. These include the costs for developing the petition; expenses, if any, of school officials; and other charges assessed directly to the school district. If citizens engage an attorney to develop the petition, or in other ways directly accrue expenditures, these costs are the liabilities of the citizens.

The election costs incurred by the county or counties are to be paid by the school districts, and costs incurred by the AEA are to be paid by the school districts. The Code of Iowa specifically requires that the counties and the AEA's involved shall charge the expenses to the local school districts.

Expenses are to be apportioned among the districts according to assessed valuations. This is particularly important in the event the petition is dismissed or the election fails. If a district fails to pay, the AEA is required to request the county auditor to order the expenses to be paid by the county from the school district's assets available at the county. These expenditures are general fund costs. (275.26)

### **Changes in AEAs**

If a district assigned to an AEA under reorganization that was previously assigned to a different AEA, can demonstrate that students in the district were utilizing a service or program prior to the reorganization that is unavailable from the AEA to which the district has been assigned, the district may be reassigned to the AEA that previously provided the service or program, upon an affirmative majority vote of the boards of the affected AEAs to permit the change. (275.27)

### **Concurrent Action**

If the AEA board sets territory out of the newly reorganized district, the boards of the old districts giving up the territory and the boards receiving territory will need to take "concurrent action" pursuant to Section 274.37. The Code does not directly address this issue; however, there is no other way, except for action of the Director of the Department of Education, to assign the severed territory to a new district. This action should be taken after the canvass and notification of the county on the reorganization, and before the effective date of the reorganization. The county will require notification of concurrent action.

### **Notification of County**

Sections 274.4 and 275.22 of the Code requires that after an election that changes school boundaries, or any action that changes school boundaries, the board secretary of the local district, or newly reorganized school district in the case of a reorganization, shall notify the auditor of each county in which any portion of the school corporation lies. This section specifies that the notice shall be a written description of the new boundaries.

### **Division of Assets and Liabilities**

The division of assets and liabilities is prescribed in Sections 275.29 through 275.31; however, such division may be included in the reorganization petition.

Between July 1 and July 20, the board of directors of the newly formed school district shall meet with the boards of all the old districts, or parts of districts, affected by the organization of the new school corporation for the purpose of reaching joint agreement on an equitable division of the assets of the several school corporations or parts of school corporations and an equitable distribution of the liabilities of the affected corporations or parts of corporations. In addition, if outstanding bonds are in existence in any district, the boards shall meet together prior to April 15 prior to the school year for which the reorganization is effective to determine the distribution of the bonded indebtedness between the districts so that the newly formed district may certify its budget under the procedures specified in Chapter 24. The boards shall consider the mandatory levy required in section 76.2 and shall assure the satisfaction of outstanding obligations of each affected school corporation.

If the boards cannot agree, the matters on which they differ shall be decided by disinterested arbitrators, one selected by the initial board, one by each board affected, and one selected jointly by boards of contiguous districts receiving territory. If the number thus selected is even, then one shall be added by the AEA administrator. The decision of the arbitrators shall be made in writing and filed with the secretary of the new corporation, and any party to the proceedings may appeal to the district court by serving notice on the board secretary of the new district within twenty days after the decision is filed. Such appeal shall be tried in equity and a decree entered determining the entire matter, including the levy, collection, and distribution of any necessary taxes. (275.30)

If necessary to equalize the division and distribution, the board or boards may provide for the levy of additional taxes, which shall be sufficient to satisfy the mandatory levy required in section 76.2 or other liabilities of the districts, upon the property of the district or part of the district and for the distribution of the tax revenues so as to effect equalization. When the board or boards are considering the equalization levy, the division and distribution shall not impair the security for outstanding obligations of each affected corporation. (275.31) ) If one or more of the contiguous school districts receiving assets and liabilities of the deaccredited school district utilizes the equalization levy, only that

territory in the school district imposing the equalization levy that comprises territory of the deaccredited school district shall be taxed (256.11(12)“a”(1)).

If the district receives a school building in the division of assets that it does not intend to use, Section 257.31(7)(b) allows the district to request from the School Budget Review Committee authority to spend a reasonable and specified amount from its unexpended fund balance (secretary’s balance) for the costs associated with the demolition of an unused school building, or the conversion for community use, in a school district involved in a dissolution or reorganization if the cost are incurred within three years of the dissolution or reorganization.

### **Fixing Director District Boundaries**

If the petition proposes the division of the school district into director districts, the boundaries of the director district shall not be drawn until after the affirmative election on the reorganization proposal. If the election is favorable, the directors of the new school district shall draw and adopt the boundaries of the director districts. Once adopted, the board shall submit the plan to the state commissioner of elections for approval. (275.12(3))

### **Special Election of New Board**

After the reorganization election passes, the AEA administrator shall arrange for a special election for directors of the new district. This election shall be as soon as possible, but no later than the third Tuesday in January of the calendar year in which the reorganization is effective. Nominations are to be filed with the board secretary of the existing district in which the candidate resides. This election is open to current board members and to non-members; however, the candidates must reside in territory that will be a part of the new district. The candidates are elected at-large or to director districts as specified in the reorganization petition.

This method of selecting the interim/initial board is prescribed in Section 275.25. If an alternative is not stated, this method is used.

### **Alternative Method for Selection of Directors**

If specified in the reorganization petition, the method detailed in Section 275.41 is used. The major feature of the alternative system is that the directors of the old boards from among themselves select the interim/initial members of the new board. If an insufficient number of directors are eligible to serve on the new board, or if an insufficient number are willing to serve, the board of the existing district may appoint to fill the vacancies. This selection process needs to be completed prior to the organization of the new board. A special election is required if the above system yields an even number of directors and the new board does not appoint one additional director. More than seven members may be possible.

There are several combinations that may occur; however a few principles to start with are:

1. The largest district usually selects four members. This number may increase to five or six.
2. The smaller district usually will select one, two or three, depending upon the population ratio between the two districts.
3. If an even number results from this process, the board unanimously selects one additional member or a special election is held for one additional member.

If more than two districts reorganize using this method, the same principles apply.

### **Organization of the New Board**

Under the regular method of election, the AEA administrator will call for an organization meeting within fifteen days of the special board election. Under the alternative method, the AEA administrator will call for an organization meeting within forty-five days of the reorganization election.

The board will need to refer to other routine sections of the Code for actions to take at the organization meeting, such as selection of board president, setting meeting dates, etc. Until the effective date of the reorganization, the new board will function as an interim board. The old boards will meet and conduct business as will the new board. A large degree of cooperation is necessary during this period, while authority and responsibility are being shifted from the old boards to the new board.

If the reorganization election was held within a few months after the November 30 deadline, it is possible that the new board will serve on an interim basis for over a year.

### **Appointing Acting Officers**

One of the first items of business of the newly formed board is to appoint an acting superintendent and an acting board secretary. 275.41 (5) These appointments allow the new board to obtain the necessary services prior to the effective date of the reorganization. The appointment of the acting superintendent is not subject to the continuing contract law. The selection of the superintendent will need coordination with the contracts of the existing superintendents. See Iowa Code on continuing contracts for further information.

### **Duties of New Board**

The board shall have jurisdiction over the personnel for the school year beginning with the effective date of the reorganization.

Following its organization, the new board may establish policy, organize curriculum, enter into contracts, and complete such planning and take such action as is essential for the efficient management of the newly formed district.

### **Continuation of Levies**

**Instructional Support Program Levy.** The instructional support program is an optional tax that can be imposed by the voters. If each district involved in a reorganization has approved an instructional support program, and if the voters have not voted upon the question of participation in the program in the reorganized district, the instructional support program shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts. (257.18(3))

**Educational Improvement Program Levy.** The educational improvement program is an optional tax that can be imposed by the voters in districts eligible under section 257.29. If each district involved in school reorganization has approved an educational improvement program, and if the voters have not voted upon the question of participation in the program in the reorganized district, the educational improvement program shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts. (257.29)

**Voter-Approved Physical Plant and Equipment Levy.** Section 275.20 provides that the reorganization petition may include a provision to have the voter-approved physical plant and equipment levy placed on the reorganization ballot. Reference to the same provision is included in the school finance chapter--Chapter 257.

If each district involved in a reorganization has adopted the voter-approved physical plant and equipment levy and if the voters have not voted upon the proposition to levy the voter-approved physical plant and equipment levy in the reorganized district, the existing voter-approved physical plant and equipment levy is in effect for the reorganized district for the least amount and the shortest time for which it is in effect in any of the districts. (298.1(5))

**Public Education and Recreation Levy (PERL).** The PERL levy is an optional tax that can be imposed by the voters. If each district involved in school reorganization has adopted the PERL tax, and if the voters have not voted upon the proposition to levy the PERL tax in the reorganized district, the existing PERL tax shall be in effect for the reorganized district for the least amount that has been approved in any of the districts. (300.2).

**Library Levy.** If a district which is qualified to contract for library services and levied the library levy tax in the fiscal year before a reorganization involving the district, the tax levy shall remain valid for succeeding fiscal years, and shall be levied and collected against the taxable property of the former district which is part of the reorganized district for school library purposes. The tax levy may be discontinued by a petition signed by eligible electors residing in the former district. (298.7)

### **Replacement of Initial Board - Regular Method**

The directors who are elected and qualify to serve shall serve until their successors are elected and qualify. At the special election, the three newly elected directors receiving the most votes shall be elected to serve until their successors qualify after the third regular school election date occurring after the effective date of the reorganization; the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the second regular school election date occurring after the effective date of the reorganization. However, in districts that include all or a part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for the election of seven directors, the timelines specified in 275.25(5) for the terms of office apply to the four newly elected directors receiving the most votes and then to the three newly elected directors receiving the next largest number of votes. (275.25, as amended by 2008 Iowa Acts, HF 2620)

#### **Board Member Terms**

		<b><u>5 member board</u></b>	<b><u>7 member board</u></b>	
July 1 - effective date				
September	1st election	0	0	
September	2nd election	2	3	(next largest)
September	3rd election	3	4	(largest number of votes)

### **Replacement of Initial Board - Alternative Method**

The process of setting terms of office and replacing members under the alternative method is complex. It is suggested that an attorney assist in developing the plan. The members of the existing boards will need to set up the replacement time schedule, and they will need to file this plan with the new board.

Section 275.41 of the Code prescribes the process as follows:

If the total number of directors determined is an even number, the directors may appoint one additional director by unanimous vote with all directors voting. If the directors do not appoint one additional director, then that number of directors shall function until a special election can be held, at which time an additional director shall be elected to a term from the newly formed district ending at the organizational meeting following the third regular school election held thereafter.

Prior to the effective date of the reorganization, the initial board shall approve a plan that commences at the first regular school election held after the effective date and is completed at the third regular school election after the effective date, to replace the initial board. The plan shall provide that as nearly as possible one-half of the members of the board shall be elected biennially. If a special election was held to elect one additional member, the term of that member shall end at the organizational meeting following the third regular school election. (275.41, as amended by 2008 Iowa Acts, HF 2620)

### **Continuing Contracts**

The terms of employment of superintendents, principals, and teachers, for the school year following the effective date of the formation of the new district shall not be affected by the formation of the new district, except in accordance with the

provision of sections 279.15 to 279.18 and 279.24 and the authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to sections 279.12, 279.13, 279.15 to 279.21, 279.23, and 279.24 for the school year beginning with the effective date of the reorganization shall be transferred from the boards of the existing districts to the board of the new district on the third Tuesday of January prior to the school year the reorganization is effective. (275.33(1))

The interim board is accorded authority and responsibility comparable to other school boards. The major difference is that it could be possible to have more than one superintendent or more principals than necessary due to time remaining on multi-year contracts.

If a district is subject to reorganization, the notification of termination for a teacher shall not occur until after the first organizational meeting of the board of the newly formed district. (279.15(1))

### **Collective Bargaining Agreement**

The collective bargaining agreement of the district with the largest basic enrollment, as defined in section 257.6, shall serve as the base agreement and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the newly formed district, using the base agreement as its existing contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by March 15 prior to the school year in which the reorganization becomes effective or within one hundred eighty (180) days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multi-year provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement. The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts. (275.33)

### **Sick Leave**

Cumulation of sick leave under section 279.40 for public school employees shall not be affected or terminated due to organization/reorganization or dissolution of a school district which includes all or the portion of the district which employed the employee for the school year previous to the organization/reorganization or dissolution, if the employee is employed by one of the school districts for the first school year following its organization/reorganization or the dissolution. (279.40)

### **Open Enrollment Good Cause**

Good cause for late applications for open enrollment as defined in Iowa Code section 282.18(4)(a) includes a change in the status of the student's resident school district and the failure of negotiations for whole-grade-sharing, reorganization, dissolution agreement or the rejection of a current whole grade sharing agreement, or reorganization plan. If the good cause relates to a change in status of a student's school district of residence, however, action by a parent or guardian must be taken to file the notification within 45 days of the last board action or within 30 days of the certification of the election, whichever is applicable to the circumstances.



## **CHAPTER 6**

### **DISSOLUTION**

The dissolution process is an alternative to the petition method of reorganization. The major differences between the two methods are that dissolution:

1. originates with the school board - unless a petition is presented to the local board,
2. does not give significant authority or responsibility to the area education agencies,
3. assigns authority and responsibility to a board-appointed commission,
4. places limited responsibility and authority in the hands of the school board to adopt or amend and adopt the dissolution proposal, and
5. provides for an election to be held in the dissolving district only -- not the contiguous districts.

For a more thorough understanding of dissolution, refer to Sections 275.51 through 275.57. Other sections Code pertain to dissolution; however, the basis for the process is included in the above named sections.

If a dissolution proposal adopted by the board contains provisions that 95 percent or more of the taxable valuation of the dissolving district would be attached to a single district, the dissolving district shall cease further proceedings to dissolve and shall comply with reorganization procedures. (275.54(5))

#### **Dissolution Sequence**

Following is a time frame of sequential steps to follow for implementing dissolution:

1. The board of directors may establish a dissolution commission. The board shall establish a dissolution commission if a dissolution proposal has been prepared by eligible electors who live in the district. The proposal must contain the names of the proposed commission members and be accompanied by a petition signed by eligible electors residing in the district equal in number to at least 20 percent of the registered voters in the district. (275.51) Detail on the Dissolution Commission is included in the next chapter of this publication.
2. The board certifies to the AEA board that a dissolution commission has been formed, the names and addresses of the members, and that the members represent the various geographic areas and socioeconomic factors in the district. (275.51)
3. The commission holds an organizational meeting within 15 days of appointment. (275.52)
4. The commission elects chairperson and vice-chair at its organizational meeting. (275.52)
5. The commission has one year from the date of its organizational meeting to:
  - a. request statements from each board of contiguous districts outlining its willingness to accept territory under what conditions,
  - b. meet with boards of contiguous districts,
  - c. meet with residents of the affected school district to the extent possible,
  - d. seek assistance from the AEA and Department of Education, if desired,
  - e. develop a proposal and present a copy to the board or notify the board that it cannot agree upon a proposal,
  - f. send a copy of the proposal to the boards of contiguous districts to which territory is to be attached,
  - g. receive objections in writing from boards of contiguous districts within 10 days of receipt of the proposal, and
  - h. if the commission modifies the proposal due to filed objections, notify all boards again. (275.52, 275.53(1))(Notifications required under 275.53(1) shall be delivered using one of the following methods: a. Mail bearing a United States postal service postmark., b. Hand delivery., c. Facsimile transmission., d. Electronic delivery. 275.53(2))
6. Within 10 days following filing of the dissolution proposal, the board sets a date for a hearing, which shall not be more than 60 days following filing of the dissolution proposal.
7. The board will publish notice of the time, date, and location of the hearing at least 10 days prior to hearing. The notice shall include the content of the dissolution proposal.

8. The board conducts a hearing, at which its president presides. A person residing or owning land in the district may present evidence at the hearing.
9. The board reviews testimony from the hearing.
10. The board adopts the proposal or amends and adopts the proposal.
11. The board notifies by registered mail the boards of contiguous districts to which territory is to be attached and the Director of the Department of Education of the contents of the dissolution proposal adopted.
12. Contiguous districts may object to the attachment of territory, in which case that portion of the dissolution proposal will not be included in the proposal voted upon, and the Director of the Department of Education shall attach the territory to a contiguous school district. The Director has the authority to attach the territory to the district that had objected to the attachment.
13. Contiguous districts may object to the division of assets and liabilities to the panel of disinterested arbitrators. The district may appeal the decision of the panel to district court by serving notice on the board secretary of the new corporation within 20 days after the decision is filed (275.53(4)).
14. If the dissolution proposal adopted provides that 95% or more of the taxable valuation of the dissolving district would be assumed and attached to one district, the dissolving school district shall stop further dissolution proceedings and shall comply with reorganization procedures.
15. If not, the Board will submit the proposition to the voters at the next election to be held on a date specified in section 39.2(4)(c). However, the date of the final hearing on the dissolution proposal must be not less than 30 nor more than 60 days before the election. The board shall give written notice of the election to the county commissioner of elections (275.55(1, 2)).
16. County commissioner publishes notice not less than 4 nor more than 20 days prior to the election.
17. Proposition is adopted if it is approved by a majority of the electors voting.
18. Attachment is effective July 1 following approval. *Since the election date could come after the deadline for terminating certified employees and the deadline for notifying the Department of Education in order to participate in reorganization incentives, and the deadline for certifying the budget, conditions caused by surpassing these deadlines must be taken into consideration.* The petition method of reorganization specifies that the election must be prior to November 30 in order to be effective the following July 1. Otherwise, the reorganization is effecting one year later on July 1. (275.24) This time frame eliminates problems caused by the two above mentioned deadlines.
19. Director of the Department of Education attaches remaining land, if any.
20. If the certified enrollment of the dissolving district is less than 600 students, the territory is eligible for a reduction in the foundation property tax levy, if approved by the Director of the Department of Education. If approved, the Director of the Department of Education will notify the Director of the Department of Management.
21. If the commission cannot agree on a dissolution proposal prior to the expiration of its term, the board may appoint a new commission.
22. Summary of maximum time schedule:
  - a. Board appoints commission.
  - b. Fifteen days to organization meeting.
  - c. One year for dissolution proposal.
  - d. Sixty days to hearing.
  - e. Forty days to election.

## **Parties to Dissolution Process**

### **Board of Directors**

- a. The role of the board of directors is generally limited to the beginning and ending of the process. Initially, the board may establish the commission.
- b. The board is required to appoint seven members, of which no more than three may be board members. The commission members must be eligible electors who reside in the school district. Further, members must be appointed from throughout the school district and represent the various

- socio-economic factors present in the school district. Members serve without compensation. The board has the authority and responsibility to fill vacancies that may occur on the commission.
- c. One final action required of the board in the initial stages of dissolution is that it must certify to the AEA that a commission has been formed. The certification must include the names and addresses of the commission members and a statement that the commission members represent the various geographic areas and socioeconomic factors present in the district. (275.51)
  - d. The board of directors, at this point, becomes relatively removed from the process. However, if prior to the expiration of the commission's one year term the commission informs the board that it cannot agree upon a dissolution proposal, the board may appoint a new commission. Members of the old commission may be appointed to the new commission. If the commission does not submit a proposal to the board within one year of its organization meeting, the commission's term is through. (275.51, 275.53(3))
  - e. The board, within ten days after receiving the dissolution proposal from the commission, shall fix a date for a hearing, which shall be no more than 60 days after the proposal was filed with the board. (275.54(1))
  - f. The board shall publish notice of the hearing at least ten days prior to the date set for the hearing. The notice shall be published in one newspaper in general circulation in the district. The notice shall include:
    - 1. the date, time, and location of the hearing, and
    - 2. the content of the proposal.
  - g. The board president shall preside at the hearing, and the board shall review testimony from the hearing.
  - h. The board shall then adopt or amend and adopt the dissolution proposal. The Code does not provide for the board to dismiss the proposal.
  - i. The board shall notify the boards of all districts to which territory will be attached and notify the Director of Department of Education. The notification shall be delivered using one of the following methods: a. Mail bearing a United State postal service postmark., b. Hand delivery., c. Facsimile transmission., d. Electronic delivery 275.54(2)If a board that was notified of possible attachment objects, that territory shall not be included in the proposal voted upon at the election. The Director of the Department of Education will attach the territory to a contiguous school district 275.54(3). Note, the designation for school district is singular. The director can attach the territory to the district that filed the objection.
  - j. The board shall call a special election to be held on a date specified in section 39.2(4)(c). The board shall give written notice of the election to the county commissioner of elections. (275.55(1))
  - k. The proposition prepared by the board for submission to the voters shall:
    - 1. describe each separate area to be attached to a contiguous school district, and
    - 2. name the school district to which it will be attached
    - 3. and may include a map in the summary of the ballot question. (275.55(1))

In summary, the board's role is limited to setting up a commission and then bringing the commission's proposal to the electorate for a vote. The board does not seem to have the authority to dismiss a commission prior to one year unless the commission informs the board it cannot agree upon a proposal. A commission that presents a proposal serves until the date of the election on the proposal. (275.51)

### **Dissolution Commission**

For a detailed review of the commission's role, review that chapter in this publication.

### **District Citizen**

The citizens of a district have the authority to present a petition to the board of directors. The petition must contain the names of the proposed members and be signed by twenty percent of the registered voters.

The citizens of a district where the board has appointed a dissolution commission have official access to the process at three points:

- a. The commission shall meet with residents of the affected school district to the extent possible in drawing up the dissolution proposal.
- b. A person residing or owning land in the school district may present evidence and arguments at the hearing. This gives the citizens access to the board prior to the time it adopts or amends and adopts the proposal.
- c. The citizens finally have control over the dissolution process in that at the election, a majority of the electors voting on the proposition must approve its adoption.

The commission is subject to the open meeting law and public records law.

### **Boards of Contiguous Districts**

The boards of contiguous districts become involved at the following points:

- a. At the beginning of the process the commission shall request statements from each contiguous school district that it is willing to accept attachments of the affected school district and under what conditions, if any, the contiguous school district recommends.
- b. The commission must meet with the boards of contiguous school districts.
- c. The commission shall send a copy of the dissolution proposal by registered mail to the boards of all districts to which territory of the affected school will be attached."
- d. A board mentioned in "c" above, may object in writing within 10 days following receipt of the proposal.
- e. If the commission modifies the proposal as a result of the objections, all districts to which attachments are to be made must be notified again by the commission.
- f. Upon conclusion of the hearing conducted by the board, the boards of districts to which territory will be attached shall be notified by the board of the affected district.
- g. If the board of a contiguous district that will have an attachment objects at this point, the territory in question will not be included in the proposal.
- h. The Director of the Department of Education has the authority and responsibility to attach any unattached area to a contiguous district. The Code puts no restrictions on the Director other than by using the word "contiguous" and referring to district as singular.

### **Citizens of Contiguous Districts**

The Code is silent on the role of citizens of contiguous districts. It can be assumed that they have normal access to their own school boards as their board are involved in the steps listed above.

### **Employees of Dissolved District**

Section 275.56 of the Code provides that boards of directors of adjacent districts give preference in hiring to both certified and non-certified employees of a dissolved district. This provision ceases after a district has been dissolved for one or more years.

Applicants who are hired by adjacent districts under this section shall maintain their benefits and rights, such as vacation, salary or alternative placement on a salary schedule based on years of experience, sick leave, and completion of probationary status.

### **County Commissioner of Elections**

The county commissioner of elections shall be given written notice of the election by the board. The county commissioner of elections shall give notice of the election by one publication in the same newspaper

in which the previous notice about the hearing was published, which publication shall not be less than four (4) nor more than twenty (20) days prior to the election. (275.55(2))

### **Area Education Agency**

Other than providing that the dissolution commission may seek assistance from the AEA, the only mention of the AEA in the dissolution process is that the local school board must:

- a. certify to the AEA that a dissolution commission has been formed;
- b. provide the names and addresses of the commission members;
- c. and certify that the commission members represent the various geographic areas and socio-economic factors present in the district.

However, the Code grants authority to the dissolution commission to seek assistance from the AEA. (275.52) In addition, the AEA if requested by the Department of Education will be responsible for preparing and certifying the final certified annual financial report (CAR-COA) for the district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (25 D.o.E. App. Dec. 139)

With the petition method of reorganization, the AEA has a large amount of authority and responsibility expressly assigned by Code; however, this is not true with the dissolution method.

If a district is dissolved, the AEA must consider that Section 275.1 requires it to revise reorganization plans periodically to reflect reorganizations [and dissolutions or mergers] that have taken place in the AEA and adjacent territory.

### **Department of Education and State Board of Education**

Other than providing that the dissolution commission may seek assistance from the Department of Education, the only mention of the Department in the dissolution process is that:

- a. Board of directors of the local school must notify the Director of the Department of Education of the dissolution proposal adopted by the local board.
- b. The Director of the Department of Education shall attach any area that was not included in the dissolution proposal to a contiguous school district.

### **Notice of Boundary Change**

After an election to reorganize, to dissolve or concurrent action on any boundary change, the board secretary shall file a written description of the new boundaries with the county auditor in each county in which any portion of the school district lies. (274.4, 275.22)

### **Challenge to Boundary Change**

No action shall be brought questioning the legality of the organization, reorganization, enlargement or change in the boundaries of any school district unless brought within six months after the date of the filing of the written description in the office of the county auditor. When the period of limitations (6 months) has passed, it shall be conclusively presumed that all acts and proceedings taken regarding the organization, reorganization, enlargement or change in boundaries were legally taken for every purpose whatsoever and that a de jure school district exists. (274.5)

### **Changes in Director District Boundaries**

If territory from a dissolved district is attached to a district that is divided into director districts, the district receiving the attachment must draft a proposal to incorporate the attached territory into existing contiguous director districts. A

public hearing on the proposal shall be held no later than May 15 following the dissolution. Notice of the public hearing must be published no less than 10 nor more than 20 days before the hearing. The final plan must be adopted by board resolution and a copy filed with the county commissioners of elections in each county in which a portion of the district is located. Also, a copy must be filed with the state commissioner of elections no later than June 15. The boundary changes shall take effect when approved by the state commissioner for the next regular school election, but no later than July 1. (275.57)

### **Enrollment of Students from a Dissolved District**

A resident student that was enrolled in grade ninth through eleventh during the school year preceding the effective date of the dissolution, may enroll in a school district to which territory of the dissolved school district was attached until that student graduates from high school (unless the student was expelled or suspended and the conditions of that expulsion or suspension have not been met). The district of residence of that student shall pay tuition to the district selected by that student for attendance, and the district selected by the student shall enroll the student. (275.55A)

### **Finance**

For a more detailed discussion of Finance related to dissolution, refer to Chapter 9 of this publication.

## **GUIDELINES FOR DISSOLUTION COMMISSION**

A dissolution commission is an official body appointed by a local board of directors in accordance to Section 275.51. For a detailed review of the entire dissolution process, refer to Sections 275.51 through 275.57.

### **Selection of Commission**

The school board has discretionary authority to appoint a commission. The legal restrictions concerning the make-up of the commission are:

1. The commission shall be representative of the socio-economic factors present in the community.
2. The commission shall represent the various geographic areas.
3. Members must be eligible electors who reside in the district.
4. The seven member commission shall contain no more than three board members, but may contain less.
5. The board appoints individuals to fill vacancies.
6. Members shall serve without compensation. As with school board members, compensation is taken to mean pay for services rendered. This would not seem to preclude the school board from reimbursing commission members for actual expenses incurred.
7. The term of office ends with a report to the board that no dissolution proposal can be approved or on the date of the election on the dissolution proposal. However, the members can be appointed to a subsequent commission.

### **Initial Work of Commission**

The Code of Iowa provides for procedures that are to be taken by the commission prior to the time it makes a proposal.

1. The commission shall hold an organizational meeting not more than fifteen days after its appointment. This section does not specify who should call the meeting. Without further clarification, it would seem to be a responsibility of the school board.
2. At the organizational meeting, the commission shall elect a chairperson and vice chairperson from its membership.
3. After the organizational meeting, the commission may meet as often as deemed necessary upon the call of the chairperson or a majority of the commission members.

4. The Code does not require that the following steps have to be done in any specific order, but they appear in the order listed:
  - a. Request statements from contiguous school districts outlining each district's willingness to accept attachments of the affected school district to the contiguous districts and what conditions, if any, the contiguous school district recommends.
  - b. Meet with boards of contiguous districts.
  - c. Meet with residents of the affected district.
  - d. Seek assistance, if needed, from the AEA and the Department of Education.

### **Contents of Proposal**

The Code requires the following to be contained in the dissolution proposal:

1. The proposal shall provide for the attachment of all territory of the school district to contiguous districts. Although the final version approved by the board may eliminate territory from the proposal, this does not grant the ability to the commission to set aside any area.
2. The description of the proposal as outlined in Section 275.51 does not state that the proposal must describe each separate area to be attached; however, Section 275.55 does require what would be a legal description of territory to be on the ballot.
3. The proposal must include a provision for the division of assets and liabilities.

### **Submission of Proposal**

The commission has one year from its organization date to submit the proposal to the school board. If this is not done, the commission's term expires. If prior to one year, the commission comes to the conclusion it cannot agree upon a proposal, it may so inform the board and its term expires. If the commission cannot agree upon a dissolution proposal prior to the one year expiration, the board may appoint a new commission.

Following are steps to be taken when submitting the proposal to the board on or before the one year deadline:

1. Send a copy of the proposal to the board.
2. Send a copy of the proposal by registered mail to the boards of all schools to which territory will be attached.
3. These boards of contiguous districts then have ten (10) days from receipt of the proposal to object in writing to the commission.
4. If there are objections, the commission may modify the proposal. However, the commission is not required to modify it.
5. If the proposal is modified, the boards to which territory is to be attached must be notified again by registered mail. There are no further provisions for the boards of contiguous districts to object to the commission, although they may at a later date object to the commission's school board.
6. The Code does not specify that the board must be notified if there are modifications; however, it would seem logical for the commission to do so.
7. At this point, responsibility shifts to the school board.

### **Suggestions for the Dissolution Commission**

Although these sections of the Code are reasonably prescriptive, the commission is on its own and will have to make decisions about its own conduct. Included here are a few suggestions that might help to make the process easier.

1. Set dates, times, and places for regular meetings -- possibly the first and third Tuesday of each month, or any regular system.
2. Keep open the provision for special meetings.
3. Appoint members to special jobs other than chairperson and vice-chairperson. A recording secretary would be helpful.
4. Review and adhere to the open meetings law and public records law, as it applies to the commission.

5. Contact the school board to make arrangements for the commission to use the school attorney.
6. Commission members are to serve without compensation. However, the commission may make an arrangement with the school board for reimbursement of actual expenses incurred.
7. Make an agreement with the school board for use of facilities, use of secretarial employees, access to specified district records, and access to the district mailing system.
8. Although it is not necessary, consider using the school appointed attorney to draft some communications required by Code -- such as notification to contiguous boards. As already pointed out, make sure the commission has authorization to use the school attorney.
9. Set up a time frame for specific activities. For example, specify how often and by when the commission will meet with boards of contiguous districts.
10. The Code does not specifically seem to require that the commission hold more than one meeting each with boards of contiguous districts, but it might be prudent to assume that the "to the extent possible" phrase is applicable. The commission will have to work out a definition for "to the extent possible."
11. The Code does require the commission to meet with citizens from its district "to the extent possible." The commission must decide how much is "to the extent possible." A suggestion is to provide the citizens with:
  - a. ample opportunity to express opinions at commission meetings;
  - b. opportunity to speak at the regular and special commission meetings; and
  - c. opportunity to meet with the commission at meetings called for specific purposes.
12. Although the Code does not require contact with the school board until the proposal is ready, it would be worth the commission's time to periodically brief the board on the progress it is making.

## **POST-DISSOLUTION ACTIVITIES**

### **Enrollment of Students from a Dissolved District**

A resident student that was enrolled in grade ninth through eleventh during the school year preceding the effective date of the dissolution, may enroll in a school district to which territory of the dissolved school district was attached until that student graduates from high school (unless the student was expelled or suspended and the conditions of that expulsion or suspension have not been met). The district of residence of that student shall pay tuition to the district selected by that student for attendance, and the district selected by the student shall enroll the student. (275.55A)

### **Athletic Eligibility/Open Enrollment**

See Chapter 8 and Iowa Code section 282.18, paragraph 13 for athletic eligibility due to a student using open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts. Good cause for late applications for open enrollment as defined in Iowa Code section 282.18(4)(a) includes a change in the status of the student's resident school district and the failure of negotiations for whole-grade-sharing, reorganization, dissolution agreement or the rejection of a current whole grade sharing agreement, or reorganization plan. If the good cause relates to a change in status of a student's school district of residence, however, action by a parent or guardian must be taken to file the notification within 45 days of the last board action or within 30 days of the certification of the election, whichever is applicable to the circumstances.

### **Notification of County**

Sections 274.4 and 275.22 of the Code requires that after an election that changes school boundaries, or any action that changes school boundaries, the board secretary of the local district, or newly reorganized school district in the case of a reorganization, shall notify the auditor of each county in which any portion of the school corporation lies. This section specifies that the notice shall be a written description of the new boundaries.



### **Challenge to Boundary Change**

No action shall be brought questioning the legality of the organization, reorganization, enlargement or change in the boundaries of any school district unless brought within six months after the date of the filing of the written description in the office of the county auditor. When the period of limitations (6 months) has passed, it shall be conclusively presumed that all acts and proceedings taken regarding the organization, reorganization, enlargement or change in boundaries were legally taken for every purpose whatsoever and that a de jure school district exists. (274.5)

### **Sick Leave**

Cumulation of sick leave under section 279.40 for public school employees shall not be affected or terminated due to organization/reorganization or dissolution of a school district which includes all or the portion of the district which employed the employee for the school year previous to the organization/reorganization or dissolution, if the employee is employed by one of the school districts for the first school year following its organization/reorganization or the dissolution. (279.40)

### **Hiring Preference**

If the enrollment of a district increases or is expected to increase because of the dissolution of an adjacent district, the district must determine if it has a need to hire additional licensed or unlicensed staff. Individuals who were employees of the dissolved district may apply for the new position, and the board shall hire those applicants whenever the applicant is licensed for the new position, or in the case of unlicensed personnel, is otherwise qualified. If two employees of the dissolved district apply for a single position, the applicant who is the best qualified in the opinion of the board shall be hired. Applicants hired from the dissolved district shall retain vacation, salary or alternative placement on a salary schedule based on the employee's years of experience, sick leave, and completion of probationary status. The board is not required to hire applicants who were employees of the dissolved district if the district has been dissolved for one or more years. (275.56)

### **Changes to Director District Boundaries**

If a school district receiving attachments of territory from a dissolved district is divided into director districts, the board shall draft a proposal to incorporate the newly received territory into one or more existing contiguous director districts or shall redraw the boundaries of all director districts. A public hearing on the proposed changes shall be held no later than May 15 following the dissolution. The board shall publish a notice of the time and place of the public hearing no less than 10 nor more than 20 days before the hearing. The final plan shall be adopted by board resolution, and shall be filed with the county commissioners of election in each county in which a portion of the district is located. The resolution shall also be filed with the state commissioner of elections no later than June 15. The boundary changes shall take effect upon the approval by the state commissioner for the next regular school election, but no later than July 1. (275.57)

## **CHAPTER 7**

### **MERGER AND STUDIES BY THE DEPARTMENT OF EDUCATION**

*Merger* means an involuntary dissolution under the authority of the Department of Education.

#### **Duties of the Department**

The Department of Education is established by Code to act in a policymaking and advisory capacity and to exercise general supervision over the state system of education, including school districts and AEAs. (256.1)

It is the duty of the state board to prescribe guidelines for facility standards, maximum class sizes, and maximum pupil-teacher and teacher-aide ratios for kindergarten through third grade and before and after school and summer child care programs. (256.7(11)) Section 256.7 gives other duties to the state board relating to graduation goals, curriculum, and staffing.

The Director of the Department of Education also has a wide variety of duties required by Code. The director must facilitate cooperation with other governmental agencies and political subdivision in the development of rules and enforcement of laws relating to education, conduct research on education matters, coordinate and supervise the use of electronic data processing by districts and AEAs, interpret laws and rules pertaining to school law, prepare a plan for ensuring that all Iowa children will be able to satisfy the requirements for high school graduation, and a multitude of other duties.

In addition, the Director must ensure that the Department of Education prepares forms and procedures to be used by districts, AEAs, and school officials and employees to insure uniformity, accuracy, and efficiency in keeping records in both pupil and cost accounting, the execution of contracts, and the submission of reports, and to notify the board or school authorities when a report has not been filed in the manner or on the dates prescribed that the school will not be accredited until the report has been properly filed. (256.9(18)).

The Director must determine by inspection, supervision, or otherwise, the condition, needs, and progress of the schools under the supervision of the department, make recommendations to the proper authorities for the correction of deficiencies and the educational and physical improvement of the schools, and request a state audit of the accounts of a district or AEA or school employee when it is apparent that an audit should be made. (256.9(19)) This inspection and supervision could include an accreditation visit, or a fiscal desk audit and site visit. A similar requirement exists under Federal law for subrecipient monitoring on the appropriate use and accounting for federal and categorical funding.

The director must conduct or direct the AEA to conduct feasibility surveys and studies, if requested under section 282.11 (citizen petition due to whole-grade-sharing), of the districts within the AEA and all adjacent territory, including but not limited to contiguous districts in other states, for the purpose of evaluating and recommending proposed whole-grade-sharing agreements. The surveys and studies shall be revised periodically to reflect reorganizations which may have taken place in the AEA, adjacent territories, or contiguous districts in other states. The surveys and studies shall include a cover page containing recommendations with explanations. The factors to be considered in determining the recommendations include, but are not limited to:

- The possibility of long-term survival of the proposed alliance.
- The adequacy of the proposed educational programs versus the educational opportunities offered through a different alliance.
- The financial strength of the new alliance.
- Geographical factors.
- The impact of the alliance on surrounding schools.

Copies of the survey or study shall be transmitted to the affected district boards. (256.9(34))

Further, the Director must explore the need for coordination between school districts, AEAs, regents institutions, and community colleges for the purpose of delivery of courses, use of telecommunications, transportation, and other similar

issues. Coordination may include, but is not limited to, coordination of calendars, programs, schedules, or telecommunications emissions. (257.9(41))

### **SBRC School Cost Studies**

The duties of the School Budget Review Committee (SBRC) include the authority to direct the Department of Education or the Department of Management to conduct studies and investigations of school costs in any school district and the authority to make recommendations to school boards relating to any budgeting or accounting matters. (257.31(1))

### **Phase I**

Phase I consists of annual monitoring of all accredited districts by the Department of Education for compliance with accreditation standards. The monitoring requires that districts annually complete accreditation compliance forms and file them with the Department. Monitoring requires a comprehensive desk audit of the district including reviewing accreditation compliance forms, accreditation visits reports, methods of administration reports, and other required reports submitted.

The Department must conduct site visits to districts to address accreditation issues identified in the desk audit. The purpose of the comprehensive site visit is to determine that a district is in compliance with minimum standards and to provide a general assessment of educational practices and make recommendations for improving educational practices above the level of minimum compliance. (256.11(10)(a))

This Phase I visit could be an accreditation visit, or a fiscal desk audit and site visit. A similar requirement exists under Federal law for subrecipient monitoring on the appropriate use and accounting for federal and categorical funding.

### **Phase II**

Phase II requires the use of an accreditation committee, appointed by the director to conduct an on-site visit to an accredited district if any of the following conditions exist:

1. Either the annual monitoring or the biennial on-site visit of Phase I indicates that the district is deficient and fails to be in compliance with accreditation standards.
2. A petition is filed with the director requesting such a visitation that is signed by eligible electors residing in the district equal in number to at least 20 percent of the registered voters of the district.
3. A petition is filed with the director requesting such a visitation that is signed by 20 percent or more of the parents or guardians who have children enrolled in the district.
4. At the direction of the State Board of Education.
5. The School Budget Review Committee (SBRC) submits a recommendation for a fiscal review to the Department.

Following the visit, the accreditation committee shall determine whether the accreditation standards have been met and make a recommendation on whether the district should remain accredited. The district shall have the opportunity to respond to the report. The director will make a recommendation to the state board. The director, in cooperation with the board of the district, shall establish a plan prescribing the procedures that must be taken to correct deficiencies. The plan is subject to the approval of the state board. During the time period specified in the plan, the district will retain its accredited status.

The accreditation committee will revisit the district to determine whether the deficiencies have been corrected and shall make a recommendation to the Director and the State Board on whether the district shall remain accredited, and if so, under what conditions. The conditions may include, but are not limited to, providing temporary oversight authority, operational authority, or both oversight and operational authority to the Director and state board for some or all aspects of the district operation in order to bring the district into compliance with minimum standards.

The state board shall review the report and recommendation and make a determination on the district's accreditation. If the deficiencies have not been corrected, and the conditional accreditation alternatives contained in the report are not mutually acceptable to the state board and the local board, the state board shall deaccredit the school district and merge the territory of the district with one or more contiguous districts at the end of the school year (July 1). The state board may place a district under receivership for the remainder of the school year. The receivership shall be under the direct supervision and authority of the AEA in which the district is located. The decision of whether to deaccredit the district or to place the district under receivership shall be based upon a determination by the state board of the best interests of the students, parents, residents of the community, teachers, administrators, and school district board members and upon the recommendations of the accreditation committee and the director (256.11(11)).

If the state board removes accreditation from a school district and merges the territory of the school district with one or more contiguous school districts, the district whose accreditation is removed ceases to exist as a school corporation on the effective date set by the state board for removal of accreditation. Notwithstanding any other provision of law, the contiguous school districts receiving territory of the former school district whose accreditation was removed are not considered successor school corporations of the former district.

Division of assets and liabilities of the deaccredited school district shall be handled as provided in Iowa Code sections 256.11(12)(a) and 275.29 through 275.31.

- If one or more of the contiguous school districts receiving assets and liabilities of the deaccredited school district utilizes the equalization levy, only that territory in the school district imposing the equalization levy that comprises territory of the deaccredited school district shall be taxed.
- Income surtax revenue and revenues generated by property taxes shall be distributed proportionately based on taxable value of the territory received by one or more school districts contiguous to the deaccredited school district.
- Revenues that are based on student enrollment shall be distributed based on percentages of students who were enrolled in the deaccredited school district in the school year immediately prior to deaccreditation and who now reside in territory received by one or more school districts contiguous to the deaccredited school district (256.11(12)"a").
- If the deaccredited school district has a negative fund balance in its general fund at the time it is deaccredited by the state board, the director may order that the positive balance from one or more other funds of the deaccredited school district be transferred to the deaccredited school district's general fund.

Prior to the effective date set by the state board for deaccreditation, the school district shall remain responsible for, and may retain such authority as is necessary to complete, all of the following:

- Execution of one or more quit claim deeds, in fulfillment of the merger of territory received by one or more contiguous school districts from the deaccredited school district.
- Preparation of and payment for a final audit of all the district's financial accounts.
- Preparation and certification of a final certified annual report to the department (257.11(12)"b").

The provisions of section 275.57 apply when accreditation of a school district and merger of the territory of such school district with a contiguous school district that is currently divided into director districts leads to the formation of new director districts (257.11(12)"c").

### **Fiscal Reviews in Conjunction with a Phase II Accreditation Visit**

If a school district exceeds its authorized budget or carries a negative unspent balance for two or more consecutive years, the School Budget Review Committee (SBRC) may recommend that the Department of Education implement a Phase II on-site visit to conduct a fiscal review. (256.11(10) and 257.31(18))

### **Finance**

For a more detailed discussion of Finance related to Mergers, refer to Chapter 9 of this publication.

# **CHAPTER 8** **ATHLETICS IN REORGANIZATION, DISSOLUTION,** **AND WHOLE-GRADE-SHARING**

WHOLE GRADE SHARING SCENARIOS	WHO MAY APPLY TO TRANSFER, DEAD- LINE, AND CODE §	ELIGIBILITY FOR INTERSCHOLASTIC ATHLETICS
Districts A and B negotiate successfully for a whole grade sharing agreement; both boards <b><u>vote for an agreement</u></b> that will send all 9-12 graders of District A to District B, effective with the 2008-09 school year.	<p>1. All students in A or B in any grade may file for open enrollment if on or before March 1, 2008. Section 282.18(2)</p> <p>2. 9-12 graders <i>in District A only</i> may file a request with District A's board within the 30 day period <u>prior</u> to the signing of the whole grade sharing agreement to attend a contiguous school district. Section 282.11</p> <p>3. Student in A or B transfers to a nonpublic school.</p>	<p>1. Whether student lives in A or B, student will have immediate eligibility in receiving district. The same is true if the student files after the March 1 deadline, and the open enrollment is approved. Section 282.18(13)</p> <p>2. If student lives in District A, student has immediate eligibility in the contiguous receiving district. Section 282.18(13)</p> <p>3. Student is immediately eligible if in a grade covered by the whole grade sharing agreement.</p>
Same as above, but agreement doesn't start until the 2009-10 school year.	<p>1. All students in A or B in any grade may file for open enrollment if on or before March 1, 2009. Section 282.18(2)</p> <p>2. 9-12 graders <i>in District A only</i> may file a request with District A's board within the 30 day period <u>prior</u> to the signing of the whole grade sharing agreement to attend a contiguous school district. Section 282.11</p>	<p>1. Student who lives in either A or B only has immediate eligibility in receiving district for 2009-10, not the year preceding it.</p> <p>2. Same as above – the student only has immediate eligibility in the contiguous district for the 2009-10 school year.</p>

Districts A and B already have a whole grade sharing agreement wherein all the 9-12 graders at A were sent to B. Both boards vote to <b><u>end the agreement</u></b> for the 2008-09 school year.	<p>1. Any student in A or B in any grade may file for open enrollment if they do so on or before March 1, 2008. Section 282.18(2).</p> <p>2. All students in either A or B in a grade covered by the former agreement may file for open enrollment after March 1 if they do so within 45 days of board's vote to end the agreement. Section 282.18(4)(b).</p>	<p>1. Any student in a grade included in the whole grade sharing agreement, whether from the sending district or the receiving district, have immediate eligibility in new school to which student transfers. A student in a grade not covered by the agreement is ineligible for 90 school days (barring some other exception such as District A not offering the sport).</p> <p>2. Eligibility is same as #1 above.</p>
Same as above, but the termination of the agreement won't be effective until the 2009-10 school year.	Any student in A or B in any grade may file for open enrollment if they do so on or before March 1, 2009. Section 282.18(2).	A student in a grade covered by the whole grade sharing agreement has immediate eligibility for the 2009-10 school year. A student who open enrolls for the 2008-09 school year has 90 school days of ineligibility, barring some other exception.
Districts A and B are in negotiations to form a whole grade sharing agreement for the 2008-09 school year, but the <b><u>negotiations fail</u></b> (the vote fails with one or both boards).	<p>1. All students in A or B in any grade may file for open enrollment if on or before March 1, 2008. Section 282.18(2)</p> <p>2. All students in A or B who would have been affected by an agreement may file late for open enrollment if within 45 days of board's vote. Section 282.18(4)(b)</p>	<p>1. Barring the applicability of another exception, no student has immediate eligibility.</p> <p>2. Same as #1 above.</p>
Same as above (effective 2008-09), but Districts A and B agree to allow late-filed open enrollments for the 2008-09 school year.	Under 282.18(16), both boards of Districts A and B agree that if a student wants to start attending District B a year early but misses the open enrollment deadline for 2008-09, the boards will approve the late open enrollment application.	The agreement of the boards to allow the late-filed open enrollment requests does not affect the transfer rule. These students are ineligible for 90 consecutive school days (barring the existence of an exception such as a cooperative sharing agreement).

<b>DISSOLUTION SCENARIOS</b>	<b>WHO MAY APPLY TO TRANSFER, DEAD- LINE, AND CODE §</b>	<b>ELIGIBILITY FOR INTERSCHOLASTIC ATHLETICS</b>
District A votes to voluntarily dissolves as of 2008-09 school year. The surrounding districts absorb the students.	1. Some students attend their new district of residence. 2. Some students use open enrollment to attend another district. 3. Some students pay tuition to a nonpublic school.	1,2,3. All students are eligible immediately, whether they attend their new district of residence or use open enrollment or otherwise transfer to a different member school.
District A votes to voluntarily dissolve as of 2009-10 school year. The surrounding districts absorb the students.	Students use open enrollment to attend another district or pay tuition to a nonpublic school one year early, 2008-09.	There is no immediate eligibility for students who transfer a year (or more) in advance of the dissolution of their district.
<b>MERGER SCENARIOS</b>	<b>WHO MAY APPLY TO TRANSFER, DEAD- LINE, AND CODE §</b>	<b>ELIGIBILITY FOR INTERSCHOLASTIC ATHLETICS</b>
Using Iowa Code section 256.11(12), the State Board of Education deaccredits District A and merges it with one or more contiguous districts as of 2008-09 school year.	1. Some students attend their new district of residence. 2. Some students use open enrollment to attend another district. 3. Some students pay tuition to a nonpublic school.	1,2,3. All students are eligible immediately, whether they attend their new district of residence or use open enrollment or otherwise transfer to a different member school.
Same as above, but the State Board's action is effective with the 2009-10 school year.	Anticipating the State Board action, some students use open enrollment to attend another district and others pay tuition to a nonpublic school for the 2008-09 year.	There is no immediate eligibility for students who transfer a year (or more) in advance of when their district will cease to exist.
<b>REORGANIZATION SCENARIOS</b>	<b>WHO MAY APPLY TO TRANSFER, DEAD- LINE, AND CODE §</b>	<b>ELIGIBILITY FOR INTERSCHOLASTIC ATHLETICS</b>
Districts A and B vote to reorganize with each other as of 2008-09 school year, creating District C.	1. Some students attend their new district of residence, District C. 2. Some students use open enrollment to attend another district. 3. Some students pay tuition to a nonpublic school.	1,2,3. All students are eligible immediately, whether they attend their new district of residence or use open enrollment or otherwise transfer to a different member school.
Districts A and B vote to reorganize with each other as of 2009-10 school year, creating District C.	Some students use open enrollment to attend another district and others pay tuition to a nonpublic school for the 2008-09 school year.	There is no immediate eligibility for students who transfer a year (or more) in advance of when their own district will cease to exist.

## **CHAPTER 9**

### **FINANCE IN REORGANIZATION, DISSOLUTION, AND WHOLE-GRADE-SHARING**

School district reorganization involves extremely complex financial conditions and presents school officials with difficult decisions. This section summarizes the financial activities concerned with whole-grade-sharing, reorganization, and dissolution. This document is designed primarily for use by school officials, and others who have knowledge of school finances. However, considering that others may have need for some of the information, a few of the basic elements of the Iowa school finance law are briefly explained.

This section is not intended to be a full explanation of school finances, but is expected to develop the connections between reorganization and school finance. In order to do this, this section begins with a review of the state foundation formula as it relates to school reorganization, in a general manner. This is followed by sections that are more specific and summarize the finances of whole-grade-sharing, and of reorganization and dissolution.

#### **Finance Formula Basics**

##### **Student Count - Budget Enrollment (Certified Enrollment, from Prior Year)**

The major portion of school district funding is pupil generated. In other words, the number of pupils is multiplied by a legislatively-set per pupil cost. When districts reorganize, the pupils are added together to form a new base.

If territory is severed from a reorganization, the pupils residing in that territory are financially assigned to the contiguous district to which their territory was assigned. Reorganization does not change the characteristics of the annual headcount. In general, the controlled budgets of school districts are based upon October 1<sup>st</sup> headcounts. However, for the first year after reorganization, the Code specifies that the budget enrollment of the combined district shall be equal to the sum of the individual districts' enrollments, less students residing in excluded territory.

For this purpose, **after the affirmative election on either a reorganization or dissolution**, the board must identify those students living in territory attached due to the dissolution, or in the case of the reorganization, living in territory which was excluded. The district must report the distribution of its certified enrollment and county of residence, special education headcount, and supplementary weightings on or before January 1 to the Department of Management. Actual enrollment within the territory will be used to allocate budget enrollment, special education weighting, supplementary and LEP weighting.

##### **Student Count – BEDS and Free and Reduced Price Lunch Counts from Prior Year**

The board will also distribute the BEDS enrollment for kindergarten through third grade, and the October 1 free and reduced count for first through third grade, by district and report to the Department of Education. K-3 BEDS enrollment and 1-3 grade free and reduced price lunch counts will be used to allocate the subsequent year's early intervention block grant allocation to the districts receiving students from the dissolved district territory.

##### **Combined Budget**

The combined budget includes the various elements of pupil counts and weightings times the legislatively-set per pupil cost. A calculation of the exact combined budget funding resulting from a reorganization is fairly complex; however, in the most general terms, a reorganization results in a combined budget funding of an amount very close to the sum of the two individual districts, and sometimes slightly less.



The combined budget for a reorganized district can be estimated with reasonable accuracy by completing the Iowa Department of Management's Aid and Levy Worksheet. Districts have the necessary information, and assistance is available from the Department of Management.

Actual territory or valuations will be used by the Department of Management to distribute net taxable valuation.

The district cost per pupil of the **reorganized** district is calculated by summing the regular program district cost from the Aid and Levy Worksheet for the year prior to the effective date of the reorganization. Also, sum the budget enrollments. Divide the summed regular program district cost, without budget adjustment, by the summed budget enrollment. This is the district cost per pupil of the combined districts and will be increased by the applicable allowable growth dollar amount.

In a **dissolution**, the regular program district cost per pupil is not recalculated.

### **Revenues and Expenditures Patterns**

A reorganized district acquires the ability to receive and expend the combined budget funding amount plus the fund balances and unspent authorized budget balance of the original districts. Internal spending patterns generally change as district enrollment becomes larger. The most notable change is that the per pupil administrative cost usually declines significantly.

As a general rule, the amount of money a reorganized district has to spend is equal to or slightly less as compared to the sum of the two individual districts. It is expected that spending levels will increase and decrease with revenue levels.

### **Balances**

When schools reorganize, the various financial balances, for each individual fund or categorical funding, from each of the affected districts are combined. However, no fund can be added to another fund nor can any categorical funding be commingled with another categorical funding. If territory is severed, Chapter 275, Sections 28 through 31, of the Code, provide for the division of assets and liabilities.

The two major balances carried forward into a reorganization are the fund balances and the unspent balance (remaining legal spending authority). If the reorganizing districts keep all territory intact, generally the beginning balances of the new district will equal the sum of ending balances of the old districts. If territory is set aside for inclusion in contiguous districts, assets and liabilities may be partially divided among districts receiving territory. Districts receiving territory but not part of the reorganized school district, will report their share of balances as revenues from reorganization settlements. All funds and categorical balances retain the same character in the receiving districts as those funds held in the former district.

In a dissolution, the fund balances are assets which are distributed. The unspent balance is not an asset or liability, so ceases to exist on the effective date of the dissolution. The following items are not distributed in a dissolution:

- Unspent budget authority balance
- Special education excess positive balances
- Special education negative balances
- Budget guarantee

### **Taxes and Assessed Valuation**

Of the financial elements reviewed in this chapter, taxes have the most impact on reorganization. The pupil counts, controlled budget, and balances are basically combinations of the individual districts. The revenue and expenditure

patterns usually assume the more efficient aspects of larger districts. All of these may or may not be important to the citizens. However, tax rates generally are important to the citizens.

a. **Regular portion of General Fund**

This portion of a school tax is a combination of the individual districts. Generally, the two districts move toward the average. However, forces within the legislated formula tend to pull the tax rate lower than the averaged calculations.

b. **Levies optional to the electorate**

1. The bond (debt service) levy may be spread over the new district or may remain with the territory of the original district in which it was voted. (76.2, 275.29) Excluded territory that is attached to another school district will pay the levies of the district to which it is attached.
2. The public education and recreation levy (PERL) (playground levy) continues if all former districts have the levy in place. Otherwise, the levy ceases. (300.2)
3. The voter-approved physical plant and equipment levy (VPPEL) remains in effect if all districts involved have the levy. If it remains, it is for the least rate authorized and for the least amount of time left. This also applies to the lowest rate of income surtax. (298.2(5)) However, VPPEL must continue if there is a debt obligation until the debt is fully paid and is treated in the same way as debt service in determining which territory shall pay the tax. (297.36)
4. The instructional support program levy remains in effect if all districts involved have the levy. If it remains, it is for the least rate/amount authorized and for the least amount of time left. (257.18(3)) This also applies to the lowest percent of income surtax.
5. Local option tax ballot uses/revenue purpose statement: If the districts from different counties **reorganize**, the ballot uses/revenue purpose statements from the applicable counties will continue to apply or the newly reorganized district may hold a change in use election. If the districts are from the same county and have different revenue purpose statements, the revenue purpose statement to apply should be addressed in the reorganization plan or the newly reorganized district should hold a change in use election. In the case of a **dissolution**, the revenues and balances from the former territory will be expended according to the ballot uses/revenue purpose statement of the district to which the territory is attached if the district to which the territory is attached previously received revenues from that same county. If the district to which the territory is attached did not previously receive revenues from that county, the revenue purpose statement of the dissolved district will apply. The district to which the territory is attached may hold a change in use election for that county.

c. **Levies optional to the boards**

The cash reserve, management, and regular PPEL levies are all options to the new board as they were to the old boards.

**Fiscal Agent Accounting in a Dissolution**

In an agency fund, multiple LEAs have pooled moneys from the **dissolved** district and one of the affected LEAs administers the funds and coordinates and executes the financial transactions necessary to complete the division of assets and distribution of liabilities.

Where the LEA serves as a cash conduit (fiscal agent), the assets and liabilities should be reported in an agency fund with only the fiscal agent's own portion of the assets and liabilities reported in the appropriate fund of the district.

### **Accounting by the fiscal agent:**

- The entire amount of remaining assets and liabilities are receipted into the agency fund, keeping each distinct original fund or categorical funding separate using project coding.
- That school district's own portion is disbursed from the agency fund to the fund that is the same fund as in the original district. The fiscal agent will use the source and project codes as defined in Uniform Financial Accounting.
- The fiscal agent's own district share of expenditures is recorded in the same fund where the revenue was deposited. The fiscal agent will use the project code as defined in Uniform Financial Accounting for that transaction.
- As disbursements are made, the disbursements on behalf of the other districts are accounted for in the agency fund. These should be recorded using some additional coding to indicate each district's share so that each district can record its share in its own accounting records.

### **Accounting by the other affected districts:**

- The district will record as revenue in the same fund as the money was in the original district, its share of the assets and liabilities when received by the fiscal agent. The district will use the project code as defined in Uniform Financial Accounting for any categorical funding.
- The cash account used will be "Cash Held by Fiscal Agent" since the district did not receive the cash for this account.
- If the district pays any of its own share of the expenditures and then is reimbursed from the fiscal agent, the district will record its expenditures in the appropriate fund as they occur.
- If the fiscal agent handles all of the disbursements to vendors, employees, etc. directly and then prepares an accounting to each affected district, the affected district will record its share of these expenditures monthly.
- If at the end of the fiscal year, the entire amount of the assets and liabilities have not been distributed, the balance remaining with the fiscal agent will be reported in the cash account "Cash Held by Fiscal Agent" and as Deferred Revenue by the affected districts.
- The agency fund is not a budgeted fund, but will be included in the audit of the fiscal agent school district.

### **Final Filings**

The former districts, in the case of a **reorganization**, or the district that is **dissolved**, or the AEA of the district that is merged, will file its final Certified Annual Financial Report (CAR), final annual audit, and final transportation report. It will also file all claims pertaining to the school year just ended such as foster care claims, nonpublic transportation claims, and special education claims for foster care or district court placed. It is customary to retain the board secretary of the former district/s to close the summer activity, such as filing the reports, paying summer payroll and payroll deposits and reports, in a reorganization or merger. However, the AEA if requested by the Department of Education will be responsible for preparing and certifying the final certified annual financial report (CAR-COA) for the district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (25 D.o.E. App. Dec. 139)

An audit is required of a district that is merged; however, it need not be a full audit. The Auditor of the State of Iowa agreed that his agency, pursuant to Iowa Code section 11.6, is the appropriate entity to review the finances of the merged district and to prepare a final reconciliation of all funds of the former district in lieu of a full audit. While it is necessary that the exact status of all school funds of the merged district be known, the auditor need not make statements about irregularities or other matters generally covered in a traditional audit. (25 D.o.E. App. Dec. 139)

### **Unemployment Claims**

When a district ceases to exist as a school corporation in the case of an involuntary merger, its status as an employer also ceases to exist. Unlike a reorganization or dissolution action pursuant to Iowa Code chapter 275, there is no successor school corporation to an involuntarily merged district. While the territory of the dissolved district will be

attached to one or more contiguous districts, none of those districts has a statutory obligation to employ any of the former employees of the dissolved district and the outstanding unemployment claims are not the responsibility of any of these districts. Because no educational agency is responsible for these outstanding unemployment claims, the Iowa Workforce Development (IWD) agency shall determine how these claims are to be honored. (25 D.o.E. App. Dec. 139)

### **Permanent records**

The student permanent records will follow the students. The district's permanent records in the case of a dissolution, will become a part of the district permanent records of the district receiving the largest territory.

### **Sharing of Reorganization costs**

The cost of publication of the hearing on the **reorganization** proposal shall be assessed to each district whose territory is involved in the ratio of the number of pupils in basic enrollment for the budget year in each district compared to the total number of pupils in basic enrollment for the budget year in the total area involved. (275.14)

If a district is established or changes its boundaries, it shall pay all expenses incurred by the AEA in connection with the proceedings. If the proposed district or boundary changes include territory in more than one AEA, the expenses shall be certified to, and if necessary, apportioned among the several districts by the joint agency board. If the territory is in only one AEA, the certification shall be made by that AEA administrator. The respective boards to which such expenses are certified shall pay the costs from the general fund. In the event of failure of any board to pay the expenses, the AEA administrator shall certify the expenses to the county auditor and the funds shall be transferred by the county treasurer from the debtor district to the AEA board for payment of those expenses. (275.26)

The county commissioner of elections shall assess the cost of the election against the district. If the proposition is dismissed or defeated at the election, all expenses shall be apportioned among the several districts in proportion to the assessed valuation of property. (275.26)

### **Reduction in Foundation Property Tax Levy**

If the dissolution is for a district with a certified enrollment of fewer than 600 students, the territory located in the district that dissolved is eligible, if approved by the Director of the Department of Education, for a reduction in the foundation property tax levy. If the Director approves the reduction, the Director will notify the director of the Department of Management. (275.55)

A reorganized school district shall levy a foundation property tax of \$4.40 per thousand dollars of assessed valuation on all taxable property which, in the year preceding a reorganization, was within a school district affected by a reorganization, or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the Director of the Department of Education. In succeeding budget years, the foundation property tax levy on that portion shall be increased:

1. \$4.90 per thousand dollars of assessed valuation on all taxable property the first succeeding year,
2. \$5.15 per thousand dollars of assessed valuation on all taxable property the second succeeding year,
3. \$5.40 per thousand dollars of assessed valuation on all taxable property the third succeeding year and each year thereafter.

The reduction in foundation property tax levy is available if one of the following applies:

- (a) In the year preceding the reorganization or dissolution, the district affected by the reorganization or the district that dissolved had a certified enrollment of fewer than 600 students.
- (b) In the year preceding the reorganization or dissolution, the district affected by the reorganization or the district that dissolved had a certified enrollment of 600 students or greater, and it entered into a reorganization or dissolution with one or more districts with a certified enrollment of fewer than 600

students. The amount of the reduction received by a qualifying district shall not exceed the highest reduction amount received by any of the districts with a certified enrollment of fewer than 600 students involved in the reorganization.

A reorganized district for purposes of the reduction is defined as a district which absorbs at least 30 percent of the enrollment of the district affected by a reorganization or dissolved during a dissolution, and in which action to bring about the reorganization or dissolution is initiated by a vote of the board or jointly by the affected boards to take effect on or after July 1, 2007, and on or before July 1, 2014. The district shall notify the Department of Education by January 1 of the year in which the reorganization or dissolution takes effect. (257.3)

### **Disposition of Property**

Property is an asset that is included in the distribution of assets and the division of liabilities. Boards should not dispose of any property prior to the reorganization or dissolution unless that property is unused for school purposes.

Proceeds from the sale of real property shall be deposited in the physical plant and equipment fund. Proceeds from the sale or disposition of property other than real property shall be deposited in the general fund. (297.22(1))

If the real property contains less than two acres, is located outside of a city, is not adjacent to a city, and was previously used as a schoolhouse site, the property shall revert to the then owner of the tract from which the same was taken, provided that the owner of the tract shall pay the value of the tract to the district. (297.15)

If the owner of the tract from which the site was taken fails to pay the amount to the district, the district may sell the site to any other person at the appraised value or may sell the site at public sale to the highest bidder. (297.19)

Before the board can sell or dispose of any property belonging to the district, the board shall hold a public hearing on the proposal. The board shall set forth its proposal in a resolution and shall publish notice of the public hearing. However, property having a value of not more than \$5,000, other than real property, may be disposed of by any procedures adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks. (297.22(1))

The board may sell, exchange, give, or grant any interest in real property to a county, municipal corporation, township or AEA if the real property is within the jurisdiction of both the grantor and grantee. (297.22(2)) This option is only available for real property. The board shall not give any boot (cash) or district assets with any real property.

To the extent that liabilities may exceed assets of a district that was merged, outstanding debts become the shared responsibilities of the districts receiving territory. Absent unanimous agreement of those districts to the contrary, the allocation of the debts shall be identical to the allocation of the net taxable value of the territory each received. The district receiving the largest share of the allocation, unless the districts unanimously agree to the contrary, shall act as fiscal agent for purposes of billing the other districts receiving territory for their shares of outstanding debts and making payments to the merged district's creditors. Outstanding income surtaxes receivable shall be allocated in the same manner. (25 D.o.E. App. Dec. 139)

### **Unused School Buildings**

The SBRC may authorize a district to spend a reasonable and specified amount of its General Fund balance (called secretary's balance or unexpended fund balance) for costs associated with the demolition of an unused school building, or conversion of an unused school building for community use, in a district involved in a dissolution or reorganization if the costs are incurred within 3 years of the dissolution or reorganization. (257.31(7)(b))

In addition, the SBRC may approve modified allowable growth for removal, management, or abatement of environmental hazards due to a state or federal requirement. Environmental hazards shall include but are not limited

to the presence of asbestos, radon, or the presence of any other hazardous material dangerous to health and safety. (257.31(6))

In the case of a district receiving an unused school building from a merged district, if the receiving board deems it advisable to demolish one or more buildings formerly owned by the merged district, the costs of demolition and related expenses such as asbestos removal can be recovered by use of an equalization levy. Demolition and related expenses reasonably may be contemplated at the time of acquisition of the buildings in question, and therefore costs could reasonably be included in the equalization levy. (25 D.o.E. App. Dec. 139)

### **Dissolution versus Reorganization**

Dissolution proposals must contain a provision for the division of assets and liabilities. Other than that, the territories of the dissolving district assume the financial characteristics of the receiving districts.

### **Equalization Levy**

If necessary to equalize the division and distribution, the board or boards may provide for the levy of additional taxes. The Department of Management shall notify the county auditor of each applicable county of the amount of the property tax levy in each portion of each applicable newly formed school district in the county for the amount estimated and certified, and the boundaries of the portions within the newly formed district for which the levy shall be made. The county auditor shall spread the applicable property tax levy for each portion of a school district over all taxable property in that portion of the district. (275.31) The equalization levy may be implemented following a dissolution, reorganization, or merger (involuntary dissolution). There are two possible situations that justify use of the equalization levy: (a) when assets cannot otherwise be equitably distributed among recipient districts, e.g., districts receiving buildings, cash, and/or other assets of a dissolving district, or (b) when a dissolving district's liabilities exceed its assets, and a mechanism is needed to collect revenue from the dissolved district to balance assets and liabilities. To utilize the equalization levy the board shall include the levy in its budget certified April 15 following the effective date of the dissolution or merger. (OAG, July 21, 1955)

Any district that receives liabilities or assets of the merged district may take advantage of the equalization levy to achieve equalized division and distribution, but the levy may be imposed solely against the property of the historical dissolved district located within the levying board's district. A levying board may take action to implement the equalization levy for just one school year at a time, but the board may vote to re-impose the levy more than once. That is, if the initial year of implementation of an equalization levy does not provide sufficient relief from the imbalance, the levying board may vote to impose the levy for the following school year also, etc. The district board that votes to implement the equalization levy, regardless of the number of times deemed necessary by that board to do so, defends any taxpayer protest. The expenses of defending against any protest, including legal fees, are not a liability attributable to the merger. These expenses do not constitute a liability attributable to the merger because a determination to implement the equalization levy cannot be known with any degree of reasonable certainty at the time of the merger, and certainly whether a taxpayer will file a protest is not knowable. (25 D.o.E. App. Dec. 139) ) If one or more of the contiguous school districts receiving assets and liabilities of the deaccredited school district utilizes the equalization levy, only that territory in the school district imposing the equalization levy that comprises territory of the deaccredited school district shall be taxed (256.11(12)"a"(1)).

In the case of a district receiving an unused school building from a merged district, if the receiving board deems it advisable to demolish one or more buildings formerly owned by the merged district, the costs of demolition and related expenses such as asbestos removal can be recovered by use of an equalization levy. Demolition and related expenses reasonably may be contemplated at the time of acquisition of the buildings in question, and therefore costs could reasonably be included in the equalization levy. (25 D.o.E. App. Dec. 139)

If a district levies for the equalization levy, the district shall deposit the tax revenues into the equalization levy fund. Once the levy has been received, the district shall transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied. The equalization levy fund is limited to

transfers to other funds, in the same proportion, for which equalization was necessary and for which the taxes were levied. Any other use or any other transfer would be inappropriate (IAC 281—98.112).

### **Use of Public Funds**

The board shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue. This law shall not be construed to limit the freedom of speech of the board officials or to prohibit the board from expressing an opinion on a ballot issue through the passage of a resolution or proclamation. (68A.505)

### **Transition of Financial System**

The transition from two or more separate financial accounting systems to one system is the responsibility of the existing boards and the new board. The prior districts essentially operate for the remainder of the fiscal year and then close the books on June 30, accruing receivable and payables using 60 days as the measure, on the GAAP basis. The new board "officially" combines the financial statements of the old districts and begins operation as a district on July 1, on the GAAP basis.

The various sections of Chapter 275 of the Code of Iowa provide for sufficient time for the new board, the acting superintendent, and the acting board secretary to prepare a budget for the reorganized district's first fiscal year. The April 15 requirement, publication requirements, and other legal mandates apply to reorganized districts in the same manner as they apply to all other districts.

The officials of the newly formed district are encouraged to contact the Department of Management in order to determine the combined per pupil cost, the combined enrollment, and other financial details. If territory was excluded from the reorganization, neighboring districts may be affected, and the situation could be very complex.

The newly reorganized board should apply for a new Federal Employer Identification Number (FIN). Each district may have only one FIN.

The board of the dissolving school district should contact its auditor to review Internal Revenue Code to determine when the W-2s and other payroll reports and deposits are required following the dissolution of a corporation.

The board will also need to address the designation of a bank, new check blanks if name is changed, new signature plate if names are changed, notification of vendors, etc.

The board will need to contact the Office of Internal Administrative Services in the Department of Education regarding a new direct deposit application.

No later than January 1 of the calendar year in which the July 1 effective date of the reorganization falls, the board shall notify the Department of Education of the reorganization.

Department of Education staff, after conferring with Department of Management, will assign a district number, county number, and building numbers for the newly reorganized district. Department of Management will assign the control county and the taxing districts.

In the case of a dissolution, or if territory was set off from the reorganization, the boards must notify the Department of Management and Department of Education regarding the distribution, if any, of certified enrollment, supplementary weighting, and special education weighting. The distribution is calculated after the date of the election and before January 1. The distribution is calculated by the residence of the students included in the certified or special education count on the official count date. The count of such students follows the territory in which they resided on count date and which is attached to another district.

Each of the former districts will complete its annual audit and Certified Annual Financial Report (CAR) following the effective date of the reorganization or dissolution. It is customary for the initial board to continue to employ the board secretaries of the former districts for purposes of completing these financial reports. However, the AEA if requested by the Department of Education will be responsible for preparing and certifying the final certified annual financial report (CAR-COA) for a district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (25 D.o.E. App. Dec. 139)

It is customary for the board secretary of the newly reorganized district, or the board secretary of the district receiving the largest amount of territory from a dissolved school district, to serve as the fiscal agent to manage the final financial transactions of the transition from the former districts to the newly reorganized district. This will continue until all liabilities have been liquidated and all assets have been distributed. These transactions are accounted for in an agency fund, with each original fund or categorical source retaining its own identification and only used for purposes appropriate to that original fund or categorical source. The fiscal agent will give a monthly accounting to all other affected districts so that each district can enter its share of the revenues and expenditures on its monthly board reports. When the financial transactions have been complete, the fiscal agent will distribute the final assets to each of the districts as required by the division of assets and liabilities. Each fund balance and each categorical funding source will retain its original character in the distribution. If the final distribution does not take place until after the final audit was performed, the transactions will be audited as part of the annual audit of the fiscal agent school district.

In the event that buildings received contain asbestos to be abated, or the district desires to demolish the buildings or convert former school buildings for community use, the districts receiving territory including that building may make a request for modified allowable growth of the School Budget Review Committee (SBRC) if the costs are incurred within 3 years of the dissolution or reorganization. (257.31(6) and 257.31(7)(b))

In the event that the former district, in the case of a **dissolution**, did not have sufficient assets to cover all of its liabilities in the general fund, the districts receiving territory may make a request for modified allowable growth of the School Budget Review Committee (SBRC) under unusual or unique circumstances. (257.31(5)(l))

The initial board must determine the location for permanent records from the former district/s. It is customary for this to be placed with the district receiving the largest amount of territory from the dissolved district.

In the case of a **dissolution**, fund balances received from the former district are recorded as revenues in the correct fund, and with the correct categorical project code, if applicable. In the case of a **reorganization**, fund balances from all of the former districts are entered as adjustments to beginning fund balance at the end of the year in the first year of the reorganization.

In the case of a district that is not a party to a reorganization, but is receiving territory from a dissolved or reorganizing district, it is customary to not estimate changes for the budget for that attachment or division of assets and liabilities, other than for the payment of bonded indebtedness if any. After the division and distribution is known after the effective date of the reorganization or dissolution, the district receiving a distribution may amend its certified budget.

### **Tuition and payments**

Tuition and payments between reorganized districts cease after the effective date. In all aspects, except for the tax breaks and possible dual bond payment schedule, a reorganized district is financially the same as all other districts in Iowa.

### **Whole-Grade-Sharing Legal Entities**

During whole-grade-sharing, the participating districts remain as two separate legal entities with their own financial conditions. The controlled budgets, revenue and expenditure patterns, balances, and tax rates remain individual. However, a few financial aspects may change:



Supplementary weighting might be available for sharing. This takes the form of "bonus students" added to the district's enrollment. The governance for this is included in Section 257.11 of the Code of Iowa.

Basically, there are three levels of supplementary weighting:

- a. For whole-grade-sharing, the number of students sent to the neighboring district is multiplied by ten percent. That amount is added to the pupil enrollment amount, and in turn generates more funding when multiplied by the district's cost per pupil.
- b. Pupil and teacher sharing not related to any whole-grade-shared grades may generate an additional weighting based on seat-time full-time-equivalency times a weighting factor of 0.48.
- c. Operational function sharing may generate an additional weighting of 0.02.

Supplementary weighting is funded by state aid and property tax.

Expenditure patterns may change internally. If the sharing is more efficient than the operation of the individual districts, more can be spent on additional instructional programs as less is spent on overhead and on the inefficient low enrollment classes.

Taxes may increase very slightly as a result of whole-grade-sharing. The additional funding for supplementary weighting comes from a combination of state aid and property tax; however, less than twenty percent is from property tax.

The supplementary funding for whole-grade-sharing is limited to three years that must occur prior to the reorganization or dissolution.

The payment of tuition or the sharing of costs is often very complex and can be controversial. The Code of Iowa allows negotiation of financing for two-way whole-grade-sharing, but specifies that the charges for one-way whole-grade-sharing shall be no less than one-half the per pupil cost of the sending district. (282.12)

### **Whole-Grade-Sharing Supplementary Weighting**

Students attending class for all or a substantial portion of a school day pursuant to a whole-grade-sharing agreement shall be eligible for supplementary weighting if the district adopts a resolution jointly with other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2014. The district shall receive a weighting of one-tenth of the percentage of the time during which the student attends classes in another district. The district is eligible for the weighting for a maximum of three years. To receive weighting in the second and third years, the district must submit information resulting from the study to the SBRC indicating progress toward the objective of reorganization on or before July 1, 2014. (257.11(c))

### **Carryforward of Whole-Grade-Sharing Supplementary Weighting**

The reorganized school district shall include, for a period of 3 years following the effective date of the reorganization, additional students added by the application of the supplementary weighting plan for whole-grade sharing, equal to the students added by the application of the supplementary weighting plan in the year preceding the reorganization. For this purpose, the weighted enrollment for the period of 3 years following the effective date of the reorganization shall include the supplementary weighting in the base year used for determining the combined district cost for the first year of the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a student whose residency is not within the reorganized district. (257.11A)

## **Tuition and Costs -- Sharing**

This section addresses the tuition and costs (amounts paid by one district to another) for the various types of sharing arrangements. The tuition references include only the types that are parts of sharing contracts between two school districts for whole-grade-sharing, pupil and teacher sharing, and administrator sharing. Special education, special

programs with determined costs, and parent paid tuition are not included. Tuition is entirely paid from the General Fund.

The boards of the districts shall negotiate as part of the new or existing whole-grade-sharing agreement the disposition of teacher quality funding provided under chapter 284. (282.10). No other state or local funding follows a student under whole-grade-sharing. However, under Iowa Code section 423E.5, a district may enter into a 28E agreement with another district that is located partially or entirely in or is contiguous to the county where the school district is located to share its revenues from its sales and services tax for school infrastructure. The shared revenue shall be expended for infrastructure purposes only. This agreement to share sales and services tax for school infrastructure is a separate agreement from a whole-grade-sharing agreement even though it may be with the same district.

### **Whole-grade-sharing--One-Way**

Iowa Code section 282.12 specifies that the sending district shall pay no less than one-half of the district cost per pupil of the sending district. This clearly establishes the minimum tuition rate, and it leaves the actual rates to be negotiated between the boards of directors.

The costs tend to be higher than the one-half minimum amount, but they normally do not go as high as the full per pupil cost. The local districts that are negotiating contracts for the first time may want to contact other districts that are already operating under one-way whole-grade-sharing agreements. This may provide a basis to estimate the range of the “market value.”

### **Whole-grade-sharing--Two-Way**

Iowa Code section 282.12 specifies that the costs shall be determined by mutual agreement of the boards. This clearly places the responsibility for establishing the tuition and costs within the authority of the local boards of directors. If the boards cannot agree upon this item, there will not be a contract.

When negotiating a first-time contract, districts may wish to contact other districts in order to determine what types of financial agreements are established. However, it is necessary to understand that there are many varieties of two-way agreements. Some use a percentage of the district cost per pupil while others have elaborate systems to determine the respective costs.

### **Third Party Whole-grade-sharing**

A district may engage in one-way whole-grade-sharing that sends students to two or more districts. The sending board is establishing a contract with each district. Each contract may stand on its own merits. In this type of situation, there really isn't a third party district since each district involved has negotiated contracts.

Three or more districts may establish a common two-way whole-grade-sharing agreement. One contract may govern all boards, or different contracts may be used for different pairings. Again, there isn't a third party district since all districts have signed contracts.

In the two above situations, the respective boards negotiate with each other, and they follow the provisions and timeliness established in Iowa Code section 282.11. If they do not agree on features of the contract, including tuition and costs, they do not sign contracts.

However, under certain circumstances third party districts may become involved--those that did not successfully negotiate a contract with the sending district. Three circumstances are explained here:

- a. If a parent or guardian, whose student is in a district that will be whole-grade-sharing, does not want their student to go to one of the partner districts, that parent or guardian may request their student to be sent to another contiguous district pursuant to Iowa Code section 282.11. If the sending district and the third party district successfully negotiate the terms of an agreement, including tuition and costs, the problems will be no greater than they are for any whole-grade-sharing contract. In effect, there is not a third party district.
- b. If the sending board disallows the request of the parent or guardian, the parent or guardian may appeal to the State Board of Education no later than March 1. Section 282.11 states that if the state board requires the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, the tuition shall be equal to the tuition established in the sharing agreement. The decision of the state board is binding on the boards of directors of the school districts affected, except that the decision of the state board may be appealed by either party to the district court.

If the whole-grade-sharing is one-way, the specific tuition rate will be established according to Section 282.12, and it will be at least equal to or larger than the district per pupil cost of the sending district. The portion of Section 282.11, paraphrased in the preceding paragraph, specifies that the tuition amount in the contract will be the rate used with the third party district. It would appear that the amount established in the contract is binding.

If the whole-grade-sharing is two-way, Section 282.11 still applies. The tuition rate established in the whole-grade-sharing contract is used. By the nature of the types of negotiating going into two-way agreements, the tuition rate may have little bearing upon the reasonable costs of educating a student.

- c. The third situation may involve the circumstance where the third party district does not want to accept the students. The decision of the state board is binding on the boards of directors of the school districts affected, but the decision of the state board may be appealed by either district to the district court.

Boards should be able to expect that whole-grade-sharing arrangements will at some time be followed by reorganizations. The seemingly temporary sharing activities should lead toward longer lasting solutions. Therefore, the boards will negotiate with the best interest of the students in mind.

### **Other Types of Sharing**

Other than whole-grade-sharing, the common types of sharing are moderate student sharing and staff sharing. Tuition is calculated on a per diem basis of the maximum tuition rate of the serving district for regular education students and the actual cost for special education students. Staff sharing is often calculated on some other reasonable percent of total cost basis.

### **Models and Formulas**

The boards of directors of the districts that are whole-grade-sharing, or engaged in other types of sharing activities, use many different models and formulas for determining tuition and costs. For up-to-date information, it is best to contact districts that are engaged in similar types of sharing. Following are some of the basic elements used by boards:

- a. The only principle in the Code relating to tuition and costs for one-way whole-grade-sharing is the one-half of district per pupil cost provision. Some districts start at this point and negotiate from there.
- b. Districts may choose to base the formula upon the district per pupil cost. Districts have been known to use the sending, receiving, or state per pupil costs. The common practice is to negotiate downward from this cost.
- c. Some of the sharing contracts are based upon actual program costs calculated at the local level and then reduced to a per pupil amount. The preference seems to be to keep the formula simple; however, it is possible for the formula to be very complex. In general, districts calculate the high school programs to be the most expensive, junior/middle high the next costly, and elementary the lowest.

- d. Some whole-grade-sharing contracts do not provide for a physical exchange of money. The districts negotiate an even exchange. Nevertheless, each district is required to enter the fair value of the sharing as a revenue and as an expenditure in its accounting and budgeting records and documents. It may be difficult with this type of agreement to arrive at a tuition rate to use with third party districts.
- e. Although there is a large variety of finance formulas and models, tuition and costs are seldom major issues for whole-grade-sharing agreements. Districts have been able to agree upon tuition rates with a minimal amount of negotiating.

## **Appendix A**

### **Sample Plan**

The format of the sample plan follows the content and purpose outlined in Iowa Code.

#### **SAMPLE PREFACE**

The purpose of this publication is to document the detailed studies and surveys of the school districts within the area education agency boundaries and all adjacent territory for the purpose of providing for reorganization of school districts and to transmit the completed plan to the Director of the Department of Education as required by Iowa Code Section 275.1 through 275.9. State policy as stated in Iowa Code is to encourage economical and efficient school district operations which will effect the attainment of higher standards of education and ensure equal educational opportunity to all children in the state. In addition to meeting the requirements of Iowa Code, this publication is intended to provide assistance to the officials and citizens of school districts contemplating school district reorganization and to assist the AEA board of directors in the event it is presented a reorganization petition.

Hearings were held concerning this reorganization plan as follows:

Dates

Locations

The reorganization plan was reviewed by the AEA board on \_\_\_\_\_ and adopted on \_\_\_\_\_.

The reorganization plan was transmitted to the Director of the Department of Education on \_\_\_\_\_.

#### **SAMPLE TABLE OF CONTENTS**

I	Overview, Conclusions, and Recommendations
II	Educational Programs
III	Enrollment and Population
IV	Finances and Property Valuations
V	Facilities and Equipment

VI	Transportation and Road Conditions
VII	Personnel
VIII	Geographical Considerations and Natural Community Areas
IX	Economic Factors
X	Long Term Stability
XI	Alternative Sharing Options as an Alternative to Reorganization
Appendix	Department of Education Reorganization Guidelines for Area Education Agencies

## **SAMPLE CHAPTER I OVERVIEW, CONCLUSIONS, AND RECOMMENDATIONS**

Include in this chapter an overview of the reorganization plan. The recommendations need not be specific in all cases, but the AEAs are advised to eliminate the nonviable options and to include recommendations, at a minimum, for each district in the AEA that has an enrollment of less than 300 students.

### **SAMPLE RECOMMENDATIONS**

Section 275.2 of the Code requires that AEA reorganization plan include suggested alternate plans that incorporate the school districts in the AEA into reorganized districts that meet the resident enrollment standard of three hundred students. AEA \_\_\_\_ currently has \_\_\_\_\_ districts below a resident student enrollment of 300.

If district A, with an enrollment of 175 were to reorganize, AEA \_\_\_\_\_ suggests it merge with district C.

If district B, with an enrollment of 275 were to reorganize, AEA \_\_\_\_\_ suggests that it reorganize with district D. However, the northwest portion of district B is more suited to be set out for inclusion in district E. Also, portions of the far western territory of district B may choose to be set out for inclusion with district D. The action of setting territory out of district B depends upon the objections filed and the judgment of the AEA board as to what would be in the best interests of all parties concerned.

For district F, with an enrollment of 95, AEA \_\_\_\_\_ suggests that it consider dissolution as it has no single obvious reorganization partner within reasonable distance and approximately equal numbers of its residents students have selected to attend school in four contiguous districts under open enrollment.

## **SAMPLE CHAPTER II EDUCATIONAL PROGRAMS**

Discuss in this chapter, at a minimum:

- Adequacy of the education program
- Individual attention given to the needs of students
- Educational opportunities
- Opportunities for students to participate in a wide variety of activities related to the total development of the student
- Other matters that may bear on educational programs meeting minimum standards required by law

Information for this chapter is available from:

Basic Educational Data (BEDS)  
 Comprehensive School Improvement Plans (CSIPs) and Annual Progress Reports (APRs)  
 Feasibility studies previously conducted  
 Directly from local school districts  
 Accreditation site visits, Phase I or II



**SAMPLE  
CHAPTER III  
ENROLLMENT AND POPULATION**

Discuss in this chapter, at a minimum:

- Pupil enrollment by grade
- Certified enrollment
- Geographic patterns evidenced by students using open enrollment to attend school in another district
- A statement of the number of resident students in the proposed alliance who were enrolled in public schools in the preceding school year

Information for this chapter is available from:

Certified Annual Report (CAR), under View Reports  
Basic Educational Data (BEDS)/Project EASIER  
Certified Enrollment  
U.S. Bureau of the Census Publications  
National Center for Education Statistics, U.S. Department of Education, Publications

**SAMPLE  
CHAPTER IV  
FINANCES AND PROPERTY VALUATIONS**

Discuss in this chapter, at a minimum:

- Financial strengths of the proposed reorganization
- State of the assessed valuation of taxable property located in the proposed reorganization territory

Information for this chapter can be obtained from:

Certified Annual Report (CAR)  
Aid and Levy Worksheet  
Adopted Certified Budget  
Taxes Finally Raised Report  
Unspent Budget Authority History Report  
Local District's Annual Audit Report  
Financial Analysis Tools Available on the Website  
School Finance Report Card Available on the Website

**SAMPLE  
CHAPTER V  
FACILITIES AND EQUIPMENT**

Discuss in this chapter, at a minimum:

- The condition of existing buildings and equipment
- Accessibility and other related legal requirements
- Environmental hazards
- Replacement cycle and estimated costs

Information for this chapter can be obtained from:

Certified Annual Report (CAR)  
Visits to local buildings  
Questionnaires to local schools  
Floor plans from local schools

**SAMPLE  
CHAPTER VI  
TRANSPORTATION AND ROAD CONDITIONS**

Discuss in this chapter, at a minimum:

- Condition of bus fleet
- Road conditions
- Transportation routes and costs
- Natural barriers
- Potential travel distances for students
- Replacement cycle and estimated costs

Information for this chapter can be obtained from:

Annual Transportation Report  
Bus route maps from local schools

**SAMPLE  
CHAPTER VII  
PERSONNEL**

Discuss in this chapter, at a minimum:

- Demographics of teaching and administrative personnel
- Staffing per administrator
- Students per teaching staff
- Average teaching assignments and extra duty assignments
- Average salaries by classification

Information for this report can be obtained from:

Basic Education Data (BEDS)  
Certified Annual Report (CAR)  
Personnel lists from local schools  
Salary schedules from local schools

**SAMPLE  
CHAPTER VIII  
GEOGRAPHICAL CONSIDERATIONS AND NATURAL COMMUNITY AREAS**

Discuss in this chapter, at a minimum:

- Natural geographic barrier
- Natural community areas
- Geographic configuration of the proposed reorganization

Information for this chapter can be gathered from:

Road maps  
County maps from the DOT  
From local school district maps

**SAMPLE  
CHAPTER VIII  
ECONOMIC FACTORS**

Discuss in this chapter, at a minimum:

- Major Employers in the Community



- Major Retail Centers
- Economic Outlook

Information for this chapter can be gathered from:

Local Chambers of Commerce  
Local District's Annual Audit Report

## **SAMPLE CHAPTER X LONG-TERM STABILITY**

Long-term stability is a key consideration when conducting studies related to reorganization. Discuss in this chapter, at a minimum:

- Possibility of long-term survival of the proposed reorganization
- Possibility of long-term survival without the proposed reorganization
- Impact on the surrounding districts, for example if not included in the planning, will those districts lose viable options

Information for this chapter can be obtained from:

Certified Annual Report (CAR)  
Aid and Levy Worksheet  
Adopted Certified Budget  
Taxes Finally Raised Report  
Unspent Budget Authority History Report  
Local District's Annual Audit Report  
Financial Analysis Tools Available on the Website  
School Finance Report Card Available on the Website

## **SAMPLE CHAPTER XI SHARING OPTIONS AS A VIABLE ALTERNATIVE TO REORGANIZATION**

Information for this chapter can be obtained from a review of Iowa Code:

28E.9  
256.13  
280.15  
282.7  
282.10

## **SAMPLE APPENDIX GUIDELINES FOR AEA EDUCATION AGENCIES**

A copy of Chapter 1 in this publication summarizes the AEA authorities and responsibilities regarding reorganization plans and reorganization petitions. That information could be included here.

### CONTIGUOUS TERRITORY

1	2	3
AEA No.	Number Contiguous AEAs	Contiguous AEAs
1	3	267, 9, 10
267	6	1, 8, 9, 10, 11, 15
8	3	267, 11, 12
9	3	1, 10, 15
10	4	1, 267, 9, 15
11	6	267, 8, 12, 13, 14, 15
12	3	8, 11, 13
13	3	11, 12, 14
14	3	11, 13, 15
15	5	267, 9, 10, 11, 15